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PHOTOGRAPHERS AND THE LAW

By
DAVID CHARLES
F.R.P.S.

AUTHOR OF "BRIGHTER PHOTOGRAPHY,"
"PHOTOGRAPHIC ENLARGING" AND
"PHOTOGRAPHIC SKIES"



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To my wife Elsie, who has a dislike for
photography, and a disrespect for law

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PREFACE

PHOTOGRAPHERS OWE MORE to law than many of them realize, for the freedoms they enjoy in the pursuit of their calling or their hobby of photography. It even gives them privileges. Yet few photographers show interest in law, until it suddenly cuts across or into their individual affairs. Then it may be too late.

Lawyers owe more to photography than many of them realize, for its services in assisting smooth administration, and in providing visible, permanent evidence of facts. The latter application of photography is used much less extensively than it might be if lawyers and photographers would co-operate in studying the possibilities it holds for their mutual advantage.

Photographers may break, or help, the law in many different ways. It is a tribute to them that the photographic evidence they offer is usually accepted by both sides without challenge and that, as defendants, they are rarely seen in Court. There are some laws which protect photographers, besides those which they should obey. There are other laws which, in effect, appear to give photographers special relaxations. There are unwritten laws which it is well for photographers to follow, lest eventually and more unpleasantly they be compelled to respect the greater rights of others.

What a photographer has done here is to collate as many impacts of the law which have occurred in his own experience and work as seem to him most likely to demand or to be forced upon other photographers' attention. To him it seems no lawyer could do that, because he would not know which aspects of which laws to choose. For legal purposes especially, photographs should be reasonably permanent and should resist the adverse influence of time. How to ensure that is herein described in detail. The value of photography for legal evidence ; its usually unquestionable truth, and when and how its truth may be imperfect ; the fear that faked photographs might appear in evidence and so defy the law ; discussions of these matters are important items of the book. The law of copyright, with which the writer finds both lawyers and photographers often unfamiliar, is fully dealt with. Most lawyers need their documents duplicated or multiplied ; the description of the many copying processes commercially available for duplicating and transmitting documents has been edited by a scientific expert in that field. Libel by photograph is an important subject amply dealt with. The directory of officials and their forms seems likely to be helpful in connection with the chapters relating to photographic businesses.

The book aims to co-ordinate a host of scattered bits of knowledge about photography and laws into a usefully connected whole. No practicable study or effort has been spared by the writer to ensure

the reliability of each fact stated in the book, and where he expresses an opinion, to make certain that it has a sound foundation. He is, however, fully conscious that it is too much to expect that no errors or omissions have occurred. He hopes that errors will be few, and will soon float up and be removed ; but to remedy all omissions would require another lifetime.

The author has filled some vacant places, and has replaced out-dated items in his knowledge and experience with the latest authoritative information from many widely-scattered sources. Some has been sought directly from the responsible officials concerned, and some obtained from their official publications.

THANKS

The author here again thanks all those who have contributed, whether a single item or several, towards the compilation of this book. His gratitude is due especially to Mr. F. J. Tritton, B.Sc., F.R.I.C., F.I.B.P., F.R.P.S., Past-President of the Royal Photographic Society, for his kindness in reading Chapter 22 and offering suggestions for its improvement ; to Dr. S. O. Rawling, D.Sc., F.R.I.C., F.R.P.S., for some details about film manufacture ; to Mr. H. J. Eldridge, M.R.San.I., M.S.I.A., Senior Sanitary Inspector of Surbiton Public Health Department, for helpful information and advice upon "shops" ; to Mr. Prowse, Factory Inspector of the Richmond, Surrey, factory inspectorate, for his exceptional courtesy and obligingness in tracing and providing certain details of the "celluloid" and "young persons" regulations ; and last but not least to an eminent solicitor who has read the author's manuscript and has offered innumerable suggestions for emendation of the legal points therein, most of which have been gratefully adopted. The last-named gentleman has expressed the wish, for reasons of professional etiquette, to remain anonymous, as has also the learned barrister who has been good enough to read and slightly to amend the final proofs.

DAVID CHARLES

*Tattenham Corner, Surrey.
January, 1950.*

CHAPTER 1

A Photographer Considers the Law

AS THE AUTHOR SEES IT, there are two separate sides of law, which both concern photographers. There is the academic, lawyer's law ; the law of the law courts. In a particular (comparatively small) lawyer's handbook on a single subject which in the present work is necessarily limited to about one and a half pages, there is an index of more than 700 references to points of 60 different statutes, and a list of 250 decisions in different actions in the Courts which in legal practice have a bearing on the result of any future cases.

One might liken this side of the law to a beauty-contest, in which the decision is not made by ancient primitive methods such as by public acclamation, by the favour of a magnate's fancy, by an editor choosing photographs, or by the tossing of a coin, but by a fairer if more cumbrous and costly method.

WORKING LAW

The second aspect of the law, as seen by the writer, is the practical working law ; the law of the street, of the workroom, of the wedding-group ; the law with which the public is in contact, and with a struggle usually (though not invariably) can understand. It is administered by civil servants of the lower grades, by police, and by local government officials ; and punishment is meted out by magistrates. This working law concerns what an amateur photographer may do, or not, in public places, and in certain circumstances what he must pay. A professional photographer, of course, it affects much more. It regulates when he may smoke in his darkroom, and lays down what printed forms he must paste up upon his walls. It makes him liable to punishment if his daughter makes a print on a Saturday afternoon, and it makes him responsible for hundreds of more important things. It gives rights to all photographers, and it gives some rights to photographers' assistants of which they frequently are ignorant.

Of this side of the law many lawyers also know but little, until they are consulted on some point either because some official has perhaps discovered a photographer's neglect of it, or because the latter has a dispute with someone else. It is then that the majesty of "lawyers' law" comes into play, and its complicated mysteries enmesh the photographic man.

"REGULATIONS"

The working side of law comes to notice through printed forms and "Regulations" and by visits from various inspectors. Such Regulations may consist of sentences extracted from an Act of Parliament, or they may be "Orders" or "Statutory Instruments" made under a previous "enabling Act." These have the force of law

equally with an Act, but the public rarely gets to know about them, excepting when one of them affects a certain trade and its journal or association publishes particulars ; or when, again, an individual is found to have ignored a detail and is sued or prosecuted.

It seems desirable, therefore, that a photographer should have available some sort of compact guide on what he must do, and on what he may or may not legally do in various emergencies, as well as on his rights when he feels that he is injured by another.

To compile this book seemed a worthwhile task, to fill a long-felt want. It has proved a colossal task, but still appears worth while.

CHAPTER 2

What May I Photograph ?

THE ABOVE QUESTION IS rarely spoken, but must be in the mind of every photographer at some time or another. "What I see, where'er I be" is the answer that is almost completely legally safe for him to give himself ! As always, though, there are exceptions to this sweeping generalization, but they are few and easily memorized. In fact the question at the head is more easily answered by specifying what one may not photograph at will. There are just these four classes of subjects : (a) Those coming under the Official Secrets Act and similar specialised legislation. These may be photographed only by direct permission or instruction of the Government Department controlling the particular items ; (b) copyright works of art, and other subjects covered by copyright (see Chapters 3 and 4) ; (c) obscene subjects ; these scarcely require defining or explaining, except that similar types of photographs may be made for legal, medical or scientific purposes ; (d) in the Law Courts, the Houses of Parliament and their precincts cameras are specifically prohibited. When not in session official permission is occasionally granted for special purposes.

DOUBTFUL ISSUES

In any discussion of the law it is rarely possible to make a clear-cut statement without immediately giving rise to exceptions, doubtful points and questions. The above four apparently clear-cut cases are not completely free from this, and in many circumstances the true answer to a doubt is obtainable only by one of two procedures. One can employ a solicitor who then seeks counsel's opinion on the point ; and to give this the latter may have to make extensive searches and researches. The alternative method is still more expensive. One defies the point of law which sets the question. One is then prosecuted and if the case is proved one may pay very heavily indeed for the final answer which has been thus decided. It is therefore scarcely for the author to lay down hard-and-fast what may or may not be done in every given circumstance !

For example, in the Official Secrets Act as stated in Stone's Justices Manual (a legal guide for magistrates) photographs are not mentioned. What is forbidden is to make a "sketch, plan, model, or document." If any photographer would like to discover whether the law definitely does or does not allow him to make a photograph of some official secret which he may not sketch, his appropriate procedure has been defined above !

PERMITTED COPYRIGHT EXCEPTIONS

There are specific and important exceptions to the law of copyright. Any statuary situated in public places, and any architectural

work of art (but not its plans and drawings) may be freely photographed, while if photographs are fairly taken of any copyright subjects for purposes of private study, research or criticism, again no permission is required. (see Chapters 3 and 4).

NUDE STUDIES

The prevalent vogue for nudes is so widespread that the question of indecency may easily if unexpectedly arise. It has been suggested in the correspondence columns of a photographic periodical that certain retouching is required by law, but extensive research has failed to find any legal support for this idea. It should be borne in mind that ideas of modesty and of indecency vary greatly from place to place and change from time to time.

The principal law relating to nude photographs is the Town Clauses Act, of 1847. It forbids "the offering for sale or exhibiting to public view indecent or obscene pictures," but it does not define those adjectives. A dictionary of English law defines indecent as "immodest, tending to obscenity," and obscenity as "tending to indecency." The only legal decision by which any sort of line can be drawn between mere nudity and indecency appears to be that of *Rex v. Hicklin* (1868) 3QB 360. This said that the test is whether "its tendency is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands it is likely to fall." This is so vague and difficult to prove that if the question should arise, it seems still to depend for answer on the personal opinion of the individual magistrate. The penalty, on conviction, is 40s. or 14 days for each offence and an offender of this kind is classed with one "who makes any bonfire, wilfully and wantonly disturbs any inhabitant by ringing or knocking at any door, who does not in meeting any other carriage keep his waggon to the left or near side, uses any slide upon ice or snow, or keeps any swine to be a common nuisance, or beats or shakes any carpet, rug or mat, excepting door-mats, before 8 a.m."

PRIVACY

To all intents and purposes there are no other legal prohibitions than those discussed above upon the taking of photographs, and it has to be admitted that the existing freedom from restrictions tends to favour persons with few inhibitions, namely those lacking in good taste and in respect for other people's privacy. If such a person is found trespassing upon private premises or land, and if too strong measures should be taken to prevent him taking photographs, he may himself become a legally-injured party. (See below). On the other hand it may prove unwise to take too great advantage of present freedoms.

INTRUSION BY THE PRESS

A case which concerns the right of a photographer to photograph on private premises was that of *Lea v. "Justice of the Peace," Limited, and R. J. Acford, Limited*. This arose out of an occasion on which Mr. Lea, a press photographer, attended on behalf of his employers,

the *Daily Mirror*, at a wedding reception to which he had not been invited. When asked by the best man what paper he represented, the photographer was said to have replied "The paper of the times," or some such words which gave the impression that he represented *The Times* newspaper. He did not mention the *Daily Mirror*. His request for permission to take a photograph was refused. Nevertheless he did take a flashlight photograph. The bridegroom, a Captain in the Guards and a powerful but partially disabled man, struck the photographer who was small and also a war-disabled man, and stamped upon his camera, destroying it. The photographer was then ejected. At Bow Street Police Court the magistrate ruled that more force had been used upon the photographer than was enough to eject a trespasser. The bridegroom, who had been previously convicted of assault, was fined £5 for the assault and £5 for breaking the camera, together with £50 towards Mr. Lea's expenses, and £135 to replace the camera, £195 in all.

ALLEGED LIBEL

A periodical called *The Justice of the Peace and Local Government Journal* commented on this case in an article headed "Ungentlemanly." It said that this word, and the word "cowardly," had been used by the magistrate to describe the conduct of the bridegroom. It went on at some length to suggest that these words more fittingly described press photographers who intruded into private lives, and their employers, the "gutter press."

Mr. Lea felt that this article was a libel upon himself and brought an action against the publishers and printers of the periodical named. The outcome was that judgment was given for the defendants with costs. The judge, Mr. Justice Hilbery, said : "In my view the plaintiff would have done well not to bring this action," and again : "I do not think it can be too strongly emphasized that in this country the Press has no right to go upon private property or into private places or intrude upon private people and into private rights, and that the standard of conduct and manners demanded of them is as high a standard as should be demanded of every citizen in a civilized community." (See "Privacy and the Press" ; Bibliography, page 148.)

TRIBAL CUSTOMS

Travellers in semi-civilized countries sometimes encounter a fear of the camera. Even in this country the feeling is sometimes expressed by young children, when told to "let the man take your photograph." They appear to imagine "the man" is actually about to "take something" away from them. However silly such ideas may appear to the photographer, they are genuinely held and should be scrupulously respected. To be too insistent, in the case of either savage or child, is to inspire lifelong hatred of the "magic box," and of its owner. On the other hand consideration and careful tact will usually overcome such curious antagonisms.

FACES ARE PUBLIC

No one has any special rights in his own face excepting that no one may throw stones or mud at it or say offensive things about it out of doors. No one can generally object to the taking of his photograph even when he is on his own property (see page 37). That fact does not permit of trespassing for the purpose and if a person does trespass and takes photographs he may be ejected. But the photographs remain his. His victim may veil his face, or hide it within doors behind drawn blinds : he may keep a wary eye open for cameras and turn his back when he spots one ; he may even flap a newspaper towards the lens or use any other peaceable method of preventing his face from being photographed. Yet even if the photographer is trespassing the victim has no legal right to employ undue force to eject him, nor has he or anyone else but the photographer himself a right to possession of the film, let alone to seize or to destroy it or the camera. The copyright in the resulting photographs are the photographer's or his employer's or client's, as the case may be.

This apparently wide legal licence for photographers does not permit one to cause obstruction in the street, or to do things such as snapshotting one's neighbour in his garden. The latter may object that one is causing him annoyance or is provoking a breach of the peace. Those are things one may not do.

LAW AGAINST A NUISANCE

It may usefully be pointed out that in many public parks one of the by-laws prohibits stand-cameras. The reason is that long ago parks were commonly used by hordes of low-grade professional photographers as no-rent studios, where they pestered the public for custom. The by-law was introduced to cure the public nuisance. Customs and cameras change, and law changes more slowly, the universality of hand-cameras has rendered such old laws obsolete. Should photographers overstep the liberties they now enjoy, who knows how soon any of those privileges may be suddenly curtailed ? There are many public and other places where a charge is made for permission to take photographs ; there are a few where photography is forbidden, and there are at least as many places where, and occasions when, common decency forbids it.

AT THE THEATRE

At most theatres cameras are objected to because photographers who do such work, in standing up for a clear view, obstruct the view of others. Besides that, the clicking of their shutters is liable to distract both audience and players. Professional photography is usually done at special rehearsals.

AT THE CIRCUS

Bertram Mills Circus holds an annual photographic competition in collaboration with *Amateur Photographer* in which competitors are restricted by certain rules, an important one being that no flash-bulb

is used. It is obvious that a flash may distract an acrobat or alarm an animal. This might bring about an accident of which the photographer would be the undoubted cause, though it might be legally difficult to bring his responsibility for it home to him. To eject him forcibly might not be legally justifiable but it might possibly be done by the onlookers ! That the existing light was insufficient without flash would not be a valid excuse, and if the photographer should plead that he had to get his living, the answer is that he should get it by some means which places nobody in jeopardy.

CHURCH CEREMONIES

There are some couples who desire to be photographed in church at the essential moment of their wedding ceremony, and there are photographers able and willing to do that with inconspicuous discretion. It has been done at Royal weddings. There are clergymen willing to permit it and others who object. There are even others who, though intensely and conscientiously disliking it, are nevertheless willing to demur to the wishes of the bride. In every such case the clergyman should be consulted in advance, and his conditions should be rigidly adhered to, if only to retain his good will for future occasions.

WEDDING GROUPS

With the coming of the modern high-speed hand-camera and film, the custom of photographing the "happy couple" and their relatives immediately on emerging from the church soon supplanted the former conventional "wedding group" at the photographer's studio or tediously arranged in the garden at the place of the reception. But the very ease of the new, spontaneous method brought trouble in its train. Other photographers than the one commissioned by the parties lined up with him, sometimes "accidentally" obstructing his lens with a convenient shoulder or an elbow. Lone wolves, under the assumed guise of press-photographers, joined in the hectic struggle for this business, which sometimes took the disgusting form of free-fights on the spot.

In recent years established professional photographers have become more brotherly and co-operative against such irresponsible outside menaces ; at the same time clergymen, alarmed at the danger to decorum, have tried to restrict the business to a single named photographer. In some cases, though, vicars of churches have not only refused permission for a bridegroom to employ the photographer of his free choice and have insisted on employment of the clergyman's own nominee (or none), but have gone so far as to print the name and address of such nominee and the conditions on the church leaflet setting out the scale of charges for wedding ceremonies. Besides that, it is not unknown for the responsible clergyman to have at hand specimens of his nominee's work and to show them in persuading a bridegroom to commission the latter. This although he may not be one of the established photographers of the district and may have no professional reputation whatsoever.

WHOSE RIGHTS ?

At least one such vicar has attempted to justify his action, first on the grounds of maintaining peace and order, and secondly on the grounds that he is in law vested with the freehold of his church grounds, so may admit or exclude whom he pleases. One may, perhaps, be pardoned for suggesting that he could more easily maintain decorum and forestall trouble, merely by contacting the local chief of police, rather than by taking law into his own hands and arousing the inevitable suspicion that his motives may not be perfectly disinterested. The scandal has developed to such an extent that it has been the subject of comment in the daily press, and reports have been submitted by the Institute of British Photographers to the Ecclesiastical Commissioners. There the matter rests at the time of writing this.

In all this unpleasantness the important rights of two people seem to have been forgotten. One is the amateur photographer relative or friend of the parties, who may himself desire or may have been asked to take some photographs. The other is, of course, the bride. It is not the photographer's day, nor the vicar's. It is hers. It is surely the bride's wishes, and her hopes for happy memories and souvenirs of that day, that should rule the situation.

STREET PHOTOGRAPHY

In a public street the photographer who erects a stand-camera, or who stops his car and climbs upon the top of it to obtain a photograph of some building or statuary may be technically infringing law by (potentially) obstructing traffic. The writer has done those things many times in busy London thoroughfares, but has never yet been summoned for "obstruction"; nor has he ever heard of another photographer suffering that fate. On some occasions the police officers on point duty have even asked the writer what he was after, and at the crucial moment have held up the whole traffic to enable him to get his picture clear of it !

The purpose of this chapter is to show the practical virtue of the saying "Live and let live." Photographers have many privileges and will gain nothing by abusing them. The Institute of British Photographers has its own "Code of Ethics" to which intending members are required to conform.

(See also Copyright, Chapter 3 ; Photographing Money, page 39 ; Television, page 38.)

CHAPTER 3

Copyright: The Photographer's Charter

OF ALL THE LAWS which help photographers, the Copyright Act of 1911 stands easily first. Although professional photographers have most to gain by it, amateurs are specially favoured by this law, since they enjoy its full protection while in effect being specifically excluded from certain of its prohibitions, as will be shown. This Act may well be called the "Photographers' Charter," and many photographic firms both large and small owe their continued existence to its strength. It affords an invisible wall of peaceful protection to a comparatively unorganized craft against powerful vested interests and sporadic banditry.

Photographers should treasure it and never weaken it. Every photographer should have a copy of the Act, which can be bought for 6d. (7d. post free) from any of the addresses listed on page 90. It is one of the simplest and most straightforward Acts we have, and its provisions are comparatively explicit, "cut-and-dried." Carefully striking out the sections specifically devoted to other arts, such as music, makes it easier afterwards for a photographer to find a point required. There is also a very sound abstract of its principal provisions and requirements in the "Dictionary of Photography."*

Photographs are taken in so many ways and in so many different circumstances, and the provisions of the law are so often misconstrued, that when a question does arise it is desirable to know what the law actually says, and not to rely upon supposition, or by what someone of one's acquaintance may state. For example there is one provision (Section 21) which applies to photographs alone and which makes the provisions for photographs different from those for other artistic works. There are also sections which apply to photographs as "artistic works" generally, without actually specifying them, and there are sections which do not at all refer or relate to photographs.

In this chapter, naturally, the writer is confining himself to provisions which control the copyright of photographs. We photographers are rather apt to take our copyrights for granted, just as we take for granted the water which we drink (in various forms) or which we use for our photography.

COPYRIGHTS ARE PROPERTY

Similarly with copyright. The present generation has no unpleasant memories of "registration," when a copy of every photograph of which one wished to keep the copyright had to be sent with a form and a remittance up to Stationers Hall, in London; when

* "Dictionary of Photography," published for *Amateur Photographer* by The Fountain Press, 15s.

infringement was the rule rather than exceptional. Yet to the writer it seems only yesterday ! To-day that procedure is still essential in the U.S.A. Copyrights are as much our property as are our freeholds, but now they are automatically ours, without expense or formality.

If someone were to cause a leak in copyright, the pre-1911 chaos might easily recur. That is why the writer draws attention in this book to some threatened leaks in copyright caused by photographers themselves, and begs them not to tamper with this law ; nor to do anything which might weaken in the least the great strength it gives them.

WHAT IS COPYRIGHT ?

Copyright in an original photograph means the sole right during fifty years to reproduce, publish or sell it in any manner or form in this country or in any country of the Copyright Convention. That is to say in most important countries *excepting U.S.A. and Russia* such a work is automatically copyright, provided the author is a British subject or is resident in Britain or in a country of the Convention. It is also copyright in Britain even if the author is an alien, if it is first published here or in one of those Copyright Convention countries. Therefore if one is a Briton, of whatever and wherever in the world one takes photographs, normally those photographs will be and will remain for fifty years one's copyrights. That will be so not only here but in Canada, Australia, in France and Germany and Spain and so on, even in Brazil and in Japan ! Would a photographer who realizes that tremendous, automatic power and privilege presume to tamper with it recklessly ? It should be cherished, guarded jealously.

WHAT IS AN "ARTISTIC WORK" ?

The Act defines "artistic works" as including works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs. It should be noted that this definition does not use the word "any," as some of the other definitions of terms in this Act do. Artistic works, therefore, include photographs, but *not necessarily any or all photographs*. Some photographs are not artistic works, and others are not original works. The degree of original "art" or craftsmanship required to bring a photograph into this definition is extremely small. To select the direction in which the camera shall point, and to select the moment at which one presses the button, appear to be sufficient.

Nevertheless, there are photographs which are produced with less control than that, and which may therefore not be protected by copyright (see page 40).

WHO IS THE AUTHOR ?

In discussing copyright it is necessary to distinguish carefully between the "author" of the work and the owner of the copyright, for the author of a photograph is not necessarily the owner of the

copyright. Nor is the person who takes a photograph always the legal "author" of it !

In the case of a book there is seldom any question as to who is the author of it. In the case of photographs, however, there is a special provision (Section 21) which lays down ". . . . the person who was the owner of such negative at the time when such negative was made shall be deemed to be the author of the work." Circumstances may occur in which it might be anything but easy to decide who was the owner of the negative, but fortunately they are rare.

An amateur photographer is virtually always the owner of his negatives, and therefore is the author, both actual and legal, of the photographs he makes. (But see page 37). In a business, on the other hand, the owner of the business is the owner of the negatives made in it. In law, therefore, he is also the "author" of those photographs, whoever and whatever he may be ! The only time when another owns the negatives is when there is a specific agreement to that effect (see Chapter 5). From this it follows (as the law stands) that even if the employer is a retired soap-boiler and the operator in his studio is a celebrated winner of international medals for his work, it is none the less the soap-boiler who is deemed in law to be the "author" of photographs taken by the artist, irrespective of the latter's professional status.

Whether it is the artist or the employer whose professional reputation is protected by the almost century-old privilege (concerning retouching) quoted on page 42, could be the subject of a pretty, and protracted, argument. Beyond that special if unusual point, however, authorship of photographs, either factual or legal, seems to confer no advantage except sometimes to make it easier to determine who owns the copyright. And that, after all, is the valuable thing.

WHO OWNS COPYRIGHT ?

The copyright of photographs must (ordinarily) belong either to the legal author or to his customer. Copyright law specifies no distinction between amateur and professional or semi-professional photographers. Yet in effect it does so, for an amateur photographer has all the protection of the Act for the photographs he takes, and if he copies the copyright works of others for his private purposes he is protected once again ! (see page 22). The ownership of copyright is clear-cut. Ordinarily, "the author of a work shall be the first owner of the copyright." The words "first owner" are used because a copyright can be sold and "assigned" to other owners in succession (see page 24). An amateur photographer, being the author of each work, is also the first owner of the copyrights. A professional photographer working on his own account who makes photographs "on spec," that is without an order, is equally the author of the work, and so owns the copyright. But — 5 (1) "where . . .

a. . . . in the case of a photograph or portrait, the original was ordered by some other person, for "valuable consideration" (in the absence of an agreement to the contrary)

the person by whom such original was ordered shall be the first owner of the copyright ; and where,

b. the author was in the employment of some other person and the work was made in the course of his employment, the person by whom the author was employed shall be the first owner of the copyright."

In simpler English still, a customer who orders a photograph to be taken (for payment or other reward) owns the copyright, but where a photograph is not taken for a customer, then it belongs to the owner of the business whether he takes it himself or employs someone else to take it. This is so even where the employed person uses his own materials for making negatives.

The writer has deliberately abbreviated and slightly altered the wording of the Act in the quoted passages above, in order to make them easily and clearly understandable by the youngest of non-legal readers. Anyone can easily refer to the Act itself and the second of those passages, Section 5 (1) 2, is quoted in full below.

“ VALUABLE CONSIDERATION ”

This phrase is so often used in discussing photographic copyright and in published writings on the subject, that one finds people referring to it as an essential factor of almost every copyright question. The fact is though, that the phrase occurs only once in the Act, Section 5 (1) (a), and then only in relation to one specific case ! This case in full and its consequence are as follows :—

“ Where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright.”

If those conditions are not fulfilled clearly the “ author ” remains the owner of the copyright. Let us examine clearly what are the conditions necessary for that “ other person ” to become the copyright owner ? They are three—

- (1) He must have given an order, for an “ original.”
- (2) He must have given, or have agreed to give, “ valuable consideration.”
- (3) That valuable consideration must be given “ in pursuance of that order.”

What is valuable consideration is discussed below, but the third condition, (3) clearly means that no one may claim the copyrights of certain photographs merely because he had done the photographer some favour, or gave him some other “ valuable consideration ” either out of the goodness of his heart or in another transaction altogether. It must be given “ in pursuance of that order,” and that order must be for the “ original,” for example, not merely for reprints. In no other copyright circumstances does “ valuable consideration ”

arise, and in no other circumstances (except as the result of a definite agreement or subsequent assignment) can a person ordering photographs own the copyrights.

WHAT IS "VALUABLE CONSIDERATION"?

Usually, and obviously, the money which is paid or is expected to be paid for making the photograph. It occasionally happens that a person wants some photographs to be taken at his exhibition, of his garden, or at his wedding, and "orders" them, but claims the copyright and excuses himself from payment on the grounds that the photographer, through his arrangement or permission, had opportunity to sell some prints to other persons interested, and that such permission was valuable. Such a claim would be invalid. A moment's thought will show that he might make a similar offer to dozens of photographers and so obtain whole sheaves of free photographs, plus all the copyrights, without the slightest effort or expense on his part; while the photographers would not be likely to benefit at all. There have been numerous occasions when photographers have been so exploited; but in point of fact and reason the only time that a person who gives such opportunity can call it "valuable consideration" is when he gives the opportunity to one photographer alone, in circumstances when the opportunity is likely to prove genuinely valuable, and then he should take proper and effective steps to exclude other photographers.

It is customary for organizers of big exhibitions to make an "official photographer" pay for sole rights to take photographs, and in such a case clearly the "valuable consideration" is given in exchange for cash, and not "in pursuance of" any order for photographs. Consequently such organizer can reasonably claim neither free prints nor the ownership of copyrights.

On the other hand if the person who does properly order a photographic work omits to pay, that does not affect his ownership of the copyright. The photographer's remedy is to sue, just as for any other debt. He has no claim on the copyright, and if he should attempt to recoup himself by acting as though the copyright were his, he might find himself the loser, as the result of his infringement, of more than the amount of his account.

WHAT IS INFRINGEMENT?

Infringement is doing any act which the owner has sole right to do. Such acts are copying or reproducing a copyright work or any part of it, in any way. Selling such a copy is equally an infringement, and so is ordering or authorizing such a copy to be made. The definition of infringement in the Act includes making a "colourable imitation." This means that drawings, paintings, photographs may not be made of one another, or of parts of one another, whether the result is a facsimile or not.

On the other hand it is laid down that photographing certain subjects and copying for certain purposes is not infringement. "A work of sculpture or artistic craftsmanship if permanently situate in a

public place or building," and "any architectural work of art" (not being plans or drawings) may be freely photographed. (Section 2 (1) (iii). Another important relaxation allows "Any fair dealing with any work for the purposes of private study, research, criticism, review or newspaper summary." It does not appear quite clear to the author whether the word "private" is confined to "study" or is intended to apply to "criticism" and "research" also, but a lawyer of some standing has assured him it refers to "study" only. It should be noted that this clause does not define "criticism" as "fault-finding." It may be the reverse, but if it is published and is unfair the copyright owner has his remedy in damages for libel. It should be noted also that these freedoms do not imply any right of access to the subjects. Freedom of access and freedom to reproduce are legally entirely separate concerns.

Further, it should be clear that the photographs one takes of such copyright subjects are themselves new, independent copyrights.

FAIR DEALING QUESTIONS

If a photographer makes lantern-slides of other photographers' work (or of any other copyright work) for the purpose of a critical lecture at his club on, say, "Artistic Composition," the author feels that he should have nothing to fear. On the other hand such a person may be a professional lecturer who receives a fee (and many amateur lecturers receive "expenses"). Then the question may arise whether what is done can be regarded as "fair dealing" (Section 2 (1) (i) or as "by way of trade exhibiting in public" (Section 2 (2) (c), which is infringing, and for a repetition of which a prison sentence with hard labour can be given! (See page 24). It should not be too easily assumed, the writer is advised, that a meeting of a camera club is not legally "in public."

If a book of unauthorized reproductions were published, it might be suggested in defence that they were reproduced "for criticism," but that would scarcely be "fair dealing." It would certainly be describable as "by way of trade exposing or offering for sale," which is specifically prohibited in Section 2 (2) (a).

FAIR DEALING DANGERS

Though lawyers in the main demand precision both in statement and in phraseology, the words "fair dealing" obviously give room for argument, and permit a judge considerable discretion in deciding any particular dispute. No other permitted purpose of reproducing other peoples' copyrights is so elastic as that for "private study, research," etc., quoted above. All the others are restricted to specific issues such as lectures, literary work, sculptures, plans, etc.

The author understands that it is permissible to make a copy for someone else's permitted purposes, as when a person who wants to pursue one of those purposes but has no graphic or photographic skill, so asks a photographer to do the actual copying. On the other hand if it is a professional photographer to whom he gives an order

to do that work for that purpose it might be argued that such a transaction without permission of the copyright owner is carried from the protection of "fair dealing" into the realms of selling and of authorising the reproduction. It is not the function of the author to decide the point. That is the prerogative of a judge, after he has listened to the arguments of counsel on each side of a dispute. Such arguments can cost a lot of money.

The author is reliably informed, however, that there have been actual cases in the Courts in which published reproductions have been held to be "fair dealing." In one such case a set of copyright engravings of ancient kings was published in a book, and another author reproduced in his own book on another subject one of those engravings. This was upheld in Court as "fair dealing," although it seems contrary to the usual belief held among photographers. Since engravings and portraits are coupled with photographs in the Section 5 (1) (a), which helps to decide who is the copyright-owner, this decision seems to open up all sorts of problems and of dangers in connection with sets or parts of photographs. This aspect, among many others, is discussed at some length in Copinger & Skone James on "The Law of Copyright."

WHEN DOES COPYRIGHT BEGIN ?

The 1911 Act lays down, in Section 21, that copyright in photographs lasts for fifty years from the making of the original negative. The question has been asked whether a photograph is therefore copyright from the moment of exposure, or only when the negative is developed. In the writer's view this is a rather thoughtless question, though one on which those fond of argument might well enjoy themselves. Since, however, it has been put in good faith and may be put again, it should be answered so far as possible.

Obviously many artistic works, books, sculptures, music and so on, normally take much longer and have more stages than the making of a negative. In respect of those arts the question may have been argued and decided. It is one unlikely to affect ordinary photographic practice, but that is not to say it might not one day become important to someone. The curious difference between photography and other arts, which probably gives rise to the above question, is that in the initial period immediately following exposure the image of the photograph remains invisible. So far as the writer is aware there is as yet no way of knowing whether there is an actual image excepting by developing it, and one may well question whether there can be copyright in a photograph which can be neither seen nor detected. On the other hand that invisible condition may persist for a long time. There have been cases where it has lasted many years. Frequently a traveller delays development of his films until his eventual return, and it has happened that a man has died leaving plates or films undeveloped, and that development has not occurred until years later they have been discovered in discarded apparatus.

It is obvious that no infringement can take place in the period

before development, but only afterwards. It is only at the end of fifty years from making the exposure that the question can arise whether or not there is still a period of unexpired copyright equal to that which originally occurred between exposure and development.

" INNOCENT INFRINGEMENT "

It has already been explained that a photographer may copy a copyright work for purposes of private study, etc., but if he submits such a copy to a periodical and it is published then both he and the publisher are offering for sale a reproduction, and both are guilty of an offence. If a copyright-owner takes legal action against an alleged infringer, the latter may try to prove that he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work (Section 8). If he proves that the owner can obtain an injunction but not damages.

In the case of photographs that defence of innocence could be upheld only in certain kinds of photographs ; namely old, apparently time-expired photographs ; those registrable as designs, those made by automatic, non-controlled apparatus, or those made by aliens and first published in non-Convention countries (for example, America and Russia) and imported into this country. With those four exceptions a photograph is automatically copyright from the making of the negative, and the law presumes that everybody knows that. Therefore in the case of other kinds of photograph, the plea that there was no reasonable ground for suspecting the existence of copyright is clearly invalid. On the other hand a copyright-owner cannot take action after three years from the time of an infringement.

ASSIGNMENT OR LICENCE

Since a copyright is the personal possession of its owner he may do as he likes with it. He can assign it to someone else ; in that case, of course, he parts with it and can have no further interest in or control of it. He may grant a general licence to reproduce it, or he may grant a partial or limited licence, such as for a given time or for a specific purpose. He may impose whatever limitations suit him or the implications of the bargain. Whatever he may choose to do in this connection must be done in writing signed by him or by someone authorised by him. Otherwise it is not valid. (Section 5 (2).)

REMEDIES AND PENALTIES

The injured owner of a copyright which has been infringed may sue the infringer for damages, injunction or the like. Besides this, anyone who knowingly sells, lets for hire, or by way of trade exhibits in public, exposes or offers for sale or hire, a copy which he knows to be an infringement may be prosecuted and fined in a police court (Section 11). The fine may be up to forty shillings for every such copy up to a total of fifty pounds. If convicted on a further offence of the same kind, he may be imprisoned with or without hard labour, for up to two months.

The writer has heard of only one instance of police court prosecution for infringement of copyright. It may be that the casual reader will at first sight be inclined to ridicule the word "hire" as applied to photographs. Yet negatives are sometimes lent for business purposes, and lantern-slides and cine-films often are hired out.

PORTRAITS BY INVITATION

Discussion of copyright in photographs is often based on portrait-studio practice, first because it is convenient, and secondly because most copyright disputes arise in that direction.

Portraiture by invitation is a business scheme which has been prevalent for sixty years or more. The Institute of British Photographers has tried to discredit the practice, but it seems too firmly implanted to be successfully discouraged. Invitations are sent out to prominent persons to visit the studio in order to have their portraits taken. In some cases the photographer visits the homes or offices of those invited. No charge is made for the sitting, and no order is asked for or taken at the time. Thus the copyrights belong to the photographer. He recoups himself first by the subsequent sale of prints to a percentage of the sitters, after they have seen proofs. Any of them who are, or who become, famous or are mentioned in a detail of the news are likely to find their portraits reproduced in newspapers. That is the second source of remuneration for the photographer.

From the above arose a secondary practice of sending such invitations to selected groups of comparatively humbler people, schoolteachers, dentists, whom-you-will, who feel flattered by the invitation but are unlikely to figure in the news. The photographer then looks to direct sales afterwards for profit.

A COPYRIGHT DISPUTE

Out of this practice grew many copyright disputes. One of the best-known is *Sasha Ltd. v. Stoenesco*. The plaintiff was a society photographer and in 1925 he verbally invited certain well-known actresses to sit for him. In 1926 the *Sketch*, the *Sphere*, and the *News of the World* published certain of those photographs with captions indicating that they were taken by S. Georges (the trading name of the defendant). A reproduced enlargement was also exhibited in St. Martin's Theatre.

The defendant argued that he had examined the original photographs for indications of copyright but found none. He claimed that the copyrights were those of the sitters themselves, and in any event each had signed an indemnity in the following form :

"I/we guarantee that I/we hold the copyright of the photographs offered for reproduction, and accept full responsibility for same."

The judge observed, and counsel agreed that : "This would not protect the defendant if he has indeed infringed copyright, but it might give him a remedy over against these people on their guarantee." After lengthy examination and cross-examination of the actresses and their agents and the parties in the case, the judge observed that the

invitations had been loose and vague, but came to the conclusion that the copyrights were those of the plaintiff (who asked only for nominal damages) and that the defendant had infringed them. He awarded 40s. damages and an injunction, with delivery to the plaintiff of all negatives and remaining copies. This case can be read in full at *The Times* newspaper office on payment of 1s., or a photostat copy can be had for 7s. 6d. The reference is : *Sasha Ltd. v. Stoenesco*, (1928) 45 Times Law Reports, p. 350.

INFRINGEMENTS BY PUBLISHERS

A noted case of infringement by a publisher was that of a newspaper which published on its front page a snapshot, which had come into its possession from other than the photographer, of a once celebrated shipwreck scene, taken within a short time of the crash, and showing victims swimming in the sea. By this immediate infringement and publication the value of a special and topical photograph was spoiled. It is understood that the photographer was awarded £200, plus ½d. for each copy of the newspaper sold that day, together with delivery to him of all remaining unsold copies and the printing-plates.

PUBLISHERS' PRACTICES

It should not be assumed from the above that punitive damages can be obtained merely because a publisher has used a photograph of someone else's copyright. Quite frequently, for example, a technical author hands in as illustrations for an article or book a set of photographs both new and old which have in fact emanated from all sorts of sources. Such an author rarely has any knowledge of the legal implications of copyright and will usually assume that he is entitled to use the illustrations he has selected. It would be impossible for the publisher to trace each source, still less to determine absolutely if the author of the text is or is not the copyright-owner in each case. Therefore it is usual for a book agreement to contain a clause to the effect that the author owns or has permission to use the copyrights of illustrations and in signing he assumes responsibility.

Some publishers of periodicals have vast photographic libraries all clearly indexed, and immediately (and every time) a photograph is used, a cheque is sent to the last-known address of the photographer or agent whose name is stamped on it. All reputable publishers are pleased to satisfy the owner of a copyright if they have unwittingly infringed it. Some publishers habitually pay without discrimination reproduction fees in respect of photographs imported from U.S.A., although in strict law there is no copyright in them over here.

UNSCRUPULOUS PUBLISHERS

On the other hand there are still many publishers in this country who are well aware that photographers have few chances of checking or even of seeing reproductions in all the vast congeries of books and periodicals that are published, and who trade upon that fact. For example when a photograph has been reproduced in a periodical,

another paper issued by the same firm may use it also but without further payment. The same firm may use it again at a later date, or in a book or some other form of publication, but may not pay unless or until challenged by the photographer.

RECEIPT FORMS ON CHEQUES

Some publishers and other firms use cheques on the backs of which is printed a receipt form. This is innocuous provided it does not contain a formula which qualifies the bargain. For example it is not unknown for it to contain such words as, "for the copyright of," and to sign this as it stands would be a complete and irrevocable assignment of the copyright to the publisher. It has been stated to the writer that the "correct" procedure is to return such a cheque to the publisher with a request for its amendment. It is said that some bankers will not honour a cheque if such an endorsement is altered by the recipient. This, however, does not appear to be so in practice. The writer has invariably struck out any such offending words, and has sometimes substituted others where necessary, before signing the endorsement, but has never had one queried by a bank, or objected to by a publisher.

WORDING OF INVOICES

A photographer giving permission to reproduce should do so in writing for the permission to be valid, and also to prevent subsequent misunderstanding about the conditions, which should also be clearly specified. For example if it is "For one use only in such-and-such a (named) periodical," or "For reproduction in one edition of your book entitled so-and-so," or again, "For reproduction as monochrome picture-post-cards only," it is quite easy to type those few words upon the invoice, and to file away the carbon copy of it in case of a dispute arising at some future date. To give verbal permission, or to invoice an indefinite "right to reproduce" opens the door for trouble, and asks for advantage to be taken.

A PRACTICAL LESSON

Where photographs are sent for publication as illustrations to an article the publisher naturally assumes that permission is implied to reproduce them for that purpose. Few publishers would use such photographs elsewhere for a different purpose. On the other hand an experience of the writer when much younger may serve to exemplify what may happen when "permissions" are neither put in writing nor put on record. He received an urgent request from a friend in the field of commercial art for a print of a certain laughing-child picture which was "just the thing" for a small poster required to advertise a local newspaper. He rushed a print along, and duly received the agreed reproduction fee.

A few years later he was greatly surprised by seeing in a chemist's window a row of bottles of a patent medicine whose labels bore the identical picture in question. Inquiry showed that the owners of the medicine were also the owners of the newspaper to which the picture

had been supplied, but in the absence of a record of the precise terms (if any) in which the original permission had been given it was thought best to regard the matter as a salutary lesson for the future.

Should one suffer an infringement, it is useless immediately to get hot under the collar, and to assume that one is the victim of a wilful offence. Even if that is indeed the case it will not do one any good to show that one has jumped to that conclusion. Nor is it wise merely to send an invoice for the usual reproduction fee, or for any stated sum. The thing to do is politely to write pointing out that an infringement of one's copyright has occurred, and to ask the offending party to explain how this has come about. In probably 99 per cent. of such cases the matter is eventually settled more or less amicably for double the normal reproduction fee. The hundredth man is not worth powder and shot, while it is less than one in a thousand cases which proves to be a *cause célèbre* in the way of damages.

An amateur photographer, be he the veriest beginner with a snapshot camera, is of course just as much entitled to the protection of the law as is the man who makes his living by photography. On the other hand, should he find a copyright of his infringed, he may be well advised to ask himself what damage, financial or otherwise, he has actually suffered as the result. This remark is not intended to discourage him from seeking redress for the wrong. It is merely to suggest that a desire for vengeance, if it exists, must be tempered by reason. After all, an infringement of one's copyright does not impugn one's character, as does a libel. So it is only when one can show that the infringement has spoilt probable big fees or sales in other directions that substantial damages can be obtained.

SPECIALLY EXCEPTED SUBJECTS

Although architectural works of art may be copyright, to take photographs of them is specifically permitted by the Act, without the authority of the copyright owner ; but that permission does not extend to architectural drawings or plans. The photography of sculpture or other "work of artistic craftsmanship" is also permitted provided it is "permanently situate in a public place or building."

As already mentioned, Section 2 (1) (i), of the Copyright Act specifically excepts from the definition of infringements "Any fair dealing with any work for the purposes of private study, research

Section 2, (1) (iv) also excepts certain *literary* matter intended for the use of schools, within extremely narrow limitations, but this does not apply to photographs.

Having regard to the current extensive growth of the use of "visual aids" in education it is more than ever important that the implications of copyright should be clearly understood. The visual aids in question are nothing more than miniature "magic-lanterns" and similar larger projectors called "epidiascopes." The former project on to a screen the images of small-gauge transparent lantern-slides and of strips of flexible films containing a series of such images.

An epidiascope projects at will lantern-slides or opaque prints, etc.

Note that a lecturer may put any copyright photograph, drawing, book, etc., into an epidiascope for projection, although he may not photograph it for the purpose of making a lantern slide for projection to the same audience.

It is clearly in the production of the slides, film-strips, and prints for projection that the question of copyright arises. Those who produce such matter on a commercial scale are liable to receive for reproduction originals from many sources, and to have no certain means of knowing who are the owners of all those copyrights. Teachers, or the education committees of local authorities who employ them, and others (including many government departments and other public authorities) who order the copies to be made, are often quite unaware of their obligations and restrictions under the Act. A form of indemnity to be used by commercial copiers, to be signed by customers, seems to be desirable.

THE CUSTOMER'S RESPONSIBILITY

The Act (Section 2) clearly states : " Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by the Act conferred on the owner of the copyright."

Section 1 gives the copyright owner sole right (among other things) to " produce or reproduce the work or any substantial part thereof in any material form whatsoever," and " to authorize any such acts."

Section 8 says that " All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright "

From Section 1 it is clear that the person who authorises a copy to be made is as much an infringer as the actual copyist, and from Section 8 that both may be required to deliver up to the copyright-owner all infringing copies in their possession. Section 11 imposes penalties on people who have negatives in their possession for the purpose of making infringing copies.

NOT ALL PHOTOGRAPHS ARE " ARTISTIC WORKS "

Section 22 specifically excludes, from the protection of the Act, designs capable of being registered under the Patents and Designs Act, 1907. This section has not until comparatively recent years had much application to photographs.

It is however now a practice to use photographic methods for facilitating the multiplication by industrial processes of objects having such design. For example the " graticules " (microscopically fine black lines on glass) of gun-sights were formerly made by sticking filament from spiders' web upon thin glass. Improvements in photography have made it possible to produce still finer graticules more

rapidly in greater numbers. An original drawn design of a graticule may be a work of art, but the negative from which the graticules are printed is a model or pattern used for multiplication by an industrial process. Therefore it may be regarded as registrable as a design, and is not copyright.

The same applies, presumably, to certain designs of parts of aeroplanes, car-bodies, gear-wheels, and so on. A photographic image of the often complicated outline is imprinted on the metal as a guide for cutting it, whereas formerly it was inscribed upon it laboriously by hand, either by means of a template or set out by measurements. Such an image, the writer understands, is protectable as a registrable design, and therefore (under Section 22) is not copyright. Distinction should be made between the two kinds of mechanical drawings which may be the basis of a photographic image.

There is first the familiar detailed scale-drawing of devices and machines, drawn by hand usually on translucent tracing-cloth so that blueprints can be taken from it. Measurements are taken either from the original tracing or from a blueprint by the craftsman in the course of his work. Such drawings are artistic works, and the blueprints or any other copies made from them carry the same copyright. When, however, a drawing or the photographic copy of it is itself a model or pattern used to multiply an object by an industrial process, then it is a registrable design and is not protected by copyright.

Other forms of photograph which, in the writer's opinion, are not copyright are dealt with in Chapter 4.

REGISTRATION OF PHOTOGRAPHS

Registration of photographs for copyrighting has been abolished in this and many other countries for many years, but the Stationers' Hall, where copyright was formerly registered, has created and maintains a registry for works of art, including photographs. It is not kept in pursuance of any statute, but it is claimed that entry in its Register may assist, in cases of infringement, in proving the existence of the work on a specific date. To register a photograph a form (price 2d.) must first be obtained from Stationers' Hall. The charge is 6s. for a certified copy of the entry and 6s. for registration, 12s. 2d. in all. A search fee is 3s.

CHAPTER 4

Fine Points and Quirks of Copyright

NO LAW, HOWEVER APPARENTLY PRECISE, can cover all the possible alternatives of complex human actions. The Copyright Act of 1911 is no exception, although well and simply drafted. On the other hand no treatise on or abstract of it can cover all the points within the Act itself. Moreover there are twenty-one previous Copyright Acts, starting long before photography, of which some have not been repealed and some only partly so. Besides that there are no less than eighty "Statutory Rules and Orders" under the 1911 Act alone. The last-named need not bother the reader at all, unless he sends his photographs for publication overseas, or deals with photographs or photographers from abroad. This is because they all relate to copyright agreements with other countries. To classify their details concisely would entail long and close research, and who knows what changes and consequent errors might occur in the final result, arising out of current history!

Full acquaintance with all such factors of copyright can be obtained by interested readers from a specialised work like "Copinger on Copyright," of which a new edition is in the press at the time of writing this (see Bibliography, page 148). There seems to be no book at present which deals exclusively with photographic copyright, although in some respects it differs, as has been shown, from copyright in other kinds of art.

"ANALOGY" IN COPYRIGHT

It is often argued (and arguing is itself no crime!) that prints made by processes like bromoil or Carbro are not photographs, since photographs are essentially "drawn by light"; whereas a Carbro-print is produced by chemical catalysis, and a bromoil print consists of printers' ink applied by hand. A similar argument could be applied to X-ray negatives, those made by infra-red rays, by radium or fluorescence none of which are made by what we call "light." However logical that argument, so far as copyright is concerned it is on false ground. The law on the point is not arguable at all. In the first place Section 1 gives copyright to "every original . . . artistic work," and in the second place Section 35 defines "photograph" as "including photo-lithograph and any work produced by any process analogous to photography." Bromoil is nothing if not photo-lithography, and all the rest are nothing if not analogous to photography.

PHOTOGRAPHING NOT ALWAYS REPRODUCING

It often happens that an interior is photographed with copyright pictures and other works in it. No objection seems ever to have

been raised to that procedure, and it seems difficult to uphold that such a photograph could be regarded as a "colourable imitation," (Section 35) and so an infringement of the copyright in any of the items in question.

COPYING FOR SOLICITORS

The question has been asked, and it may be asked again, that if a solicitor instructs a photographer to copy a letter or other matter for legal purposes, such as for an action in the Courts, and if the matter is the copyright of the opposing party ; then, if the latter loses his case as the result, can he sue the photographer for damages in respect of loss which has occurred due to his infringement ? The answer given to the writer by an eminent solicitor was to the effect that no judge would regard as an infringement a copy made in the interests of justice. Presumably therefore it would be regarded as "fair dealing" for purposes of research or criticism ". (Section 2 (1) (i).)

COPYING MAPS

On the other hand a solicitor or a surveyor may require for purposes other than litigation, such as for conveyancing of property, a copy of an ordnance map, or part of it. The "original" handed to the photographer may not be the original map, but a reproduction or a tracing of a part. If, however, the latter was made from an ordnance map or even from a map which itself was copied from an ordnance map, then to copy it by camera is as much an infringement of as if the original map were copied. Permission of the Ordnance Survey Office must be obtained before anyone may make :—

- (1) A copy of an ordnance map, or
- (2) an extract from such a map, or
- (3) a copy of any copy of, or of any extract from such a map.

For every such copy of an ordnance map which a photographer may be asked to copy, a fee is payable in advance by the solicitor or other client to the Ordnance Office, Southampton or to H.M. Stationery Office, and permission should in any case first have been obtained from the former.

There are certain relaxations in favour of : Local authorities, map-printing firms, and solicitors who *trace maps in their own offices*. These relaxations, however, refer only to paying small royalties in bulk in place of singly, and have no bearing whatsoever on any *photographic* copy which a solicitor or surveyor might require a professional photographer to make. Consequently unless the client has obtained specific permission by application on a special form and has paid the fee, both he and the photographer would be infringing Crown copyright.

PROTECTIVE PROCEDURE

It seems probable that there has been a general tendency to overlook the legal position, and a photographer who does extensive copying work, especially one with valued clients, is in rather a delicate position if he meticulously persists in enquiring of them if the requirements

of the law have been fulfilled. It might be even more delicate in the case of a solicitor who might reasonably claim and be considered to know and to have complied with the law. This is a branch of work where a form of indemnity against the results of legal proceedings to be signed by the client appears to be called for (see page 25). Alternatively or additionally a notice might well be printed on invoice forms and be exhibited prominently in the office, to the effect that copying work is undertaken only on the understanding that the originals are either the copyrights of the customer, or that he has the written permission of the copyright owners. Although this may not be quite legally effective it should prevent misunderstanding.

OLD ORIGINALS

On the other hand it should not be forgotten that where the map or plan as for example in the deeds of property (or any other original) is old, the copyright in it is possibly time-expired. In the old Acts the term of copyright was for the author's lifetime and a specified period after his death, a period nearly always extremely difficult, and frequently impossible, to determine. Since 1911 the term has been altered in respect of photographs to fifty years from making the negative. Therefore it appears that the copyrights in photographs which the writer made in his youth will long outlive those of his later photographs taken between 1911 and, say, 1930.

A photographic reproduction of an artistic work made with permission is in itself a new and independent copyright, which dates from the time the new negative was made. Therefore in a book which contains photo-mechanical reproductions of old prints, there will be copyright in the reproduced illustrations for a further fifty years, irrespective of the age of the originals and even if the latter and their copyrights are no longer in existence.

"RESERVATION" OF COPYRIGHT

It is the practice of some portrait photographers to issue to customers a printed statement to the effect that the copyright remains the property of the studio owner. In other cases a verbal statement is relied on. Sometimes it is stated to be "in consideration of a special reduced charge." None of these devices has any force in law. Only if the photographs are taken without charge at the invitation and entire risk of the photographer is the copyright his. In nearly all other cases the portrait is the customer's copyright, and it can become the photographer's only by a written "assignment" of it, signed by the customer. Even if the latter fails to pay his bill, the photographer's only remedy lies in the County Court as for an ordinary debt. It does not affect ownership of copyright.

SPECIMEN AND EXHIBITION PRINTS

A photographer has no legal right to make prints for himself of any negative which is not his copyright, though the negative itself be his property (see Chapter 5). If he does so and exhibits the print

in his shop window or at a public exhibition and the customer objects he should remove it instantly. On the other hand although in strict law the customer could claim that infringing print, such a claim could be substantiated only by court proceedings in which he may claim also the negative (see Chapter 5).

WHY PUNCTURE IT ?

Some learned societies have a rule that the copyright of papers read to them, and of contributions to their journals, shall belong to the particular society. The Royal Photographic Society has recently followed this example, and has incorporated the rule in its articles of association. Readers may be interested to know that the writer argued against this new rule at some length and with some force at the "extraordinary" but extremely sparse meeting at which it was adopted, but that he was overruled by one (the then President's casting) vote. One member opined (apparently not with humorous intention) that the opportunity given to a lecturer to air his views upon the platform was the "valuable consideration" which gave the copyright to the society. This, even if it were logical, is a complete fallacy, for the Act uses that term only in connection with an order which is given for the making of an original engraving, photograph or portrait (see "Valuable Consideration," page 20). In the case of a lecture or a written contribution the only person who can be the first owner of the copyright is the author or his employer. For the copyright to pass elsewhere, as for example to the Society, the law lays down that it must be assigned in writing signed by the first owner, and this is not the practice among lecturers. Nor in any event could such a rule bind a lecturer who is not a member. The rule, in fact, seems contrary to law.

The writer feels, in this connection, that only those who can recall the pre-1911 era, with its 1s. registration for each copyright, its onus on the injured party to prove that copyright existed, and its widespread flagrant infringements ; only they can fully appreciate the peaceful automatic protection now enjoyed by all. Only they can sense the danger of sticking pins into the law, and the presence of those who wait for it to be punctured. Photographers have gained and stand to gain so much from copyright (for many it governs their entire existence) that for an individual to puncture it is silly and can be serious. When the puncturing (however slight) is deliberately done by their premier representative body in the world, then it seems to savour of the suicidal.

PHOTOGRAPHS IN EXHIBITIONS

It is a frequent practice in organizing camera club exhibitions to make a rule that pictures hung may be reproduced to advertise the exhibition or in press reviews of the latter. That is usually unobjectionable and is an entirely different proposition to a claim to the copyright. Provided the action taken does not exceed these limitations it can scarcely be regarded as other than "fair dealing."

PHOTOGRAPHIC COMPETITIONS

Many photographic advertising competitions are restricted to entries from amateur photographers, and in some cases it is made a condition of entry that both the negative and the copyright of winning photographs shall become the property of the promoting firm. There seems nothing that can be reasonably objected to in this, especially is the prizes offered are substantial. Serious objection is, however, justified when some restriction or reservation of copyright is attempted on non-winning entries.

MARKING PRINTS "COPYRIGHT"

Some photographers habitually mark their photographs "copyright," and many government departments imprint reproductions of photographs in their publications with the words "Crown copyright reserved." The last-named word "reserved" conveys no additional legal meaning or implication, and is mere pomposity. Neither practice is desirable or necessary. No one puts a notice on his house, "Freehold reserved," to warn off would-be squatters. Since 1911 virtually all new printed publications and photographs are automatically copyright and no useful purpose is served by such marking.

The custom is also now definitely unwise. This is first because it is liable to convey the erroneous impression that illustrations not so marked are not copyright and so may be freely reproduced, and secondly because a habit or custom which becomes an established practice may eventually make that implication a valid one, and so carry the position back to the time when any photograph or reproduction not so marked might be copied with impunity, as is still the case in U.S.A. It is better to use no such mark and rely upon the law, than sooner or later be compelled to mark every single print and reproduction.

Worse still is the practice of having the word "Copyright" printed on one's mounts, or of stamping the word indiscriminately on photographs which are not one's copyright at all. This is sometimes done with the idea of scaring off possible copiers, although if such copying were to be ordered by the real owner of the copyright he would be entirely within his rights. Such a practice brings the whole profession into disrepute. No such objection can be raised to a press photographer marking his prints "Copyright of So-and-so" followed by his address, for that is an obvious business precaution to ensure that reproduction fees shall come to the rightful person, however long a publisher may retain the prints, and however many times he may reproduce them.

WHOSE COPYRIGHT?

The Writers' and Artists' Yearbook is an annual which is relied upon by many freelance press and other photographers. In its 1947 to 1949 editions is an article on copyright by a barrister, and in that article is a statement which appears to need very careful reading and comparison with what is laid down in the Act. The paragraph in

question begins : "Where a work is made by an employee in the course of his employment the copyright vests in the employer (Section 1 (1)(b)." Except that this is evidently a misprint for "Section 5 (1)(b)" that part of the quotation accurately represents the meaning of the actual words in the Act. But the paragraph goes on : "This, however, applies only in the case of a strict contract of service. Where the author or artist is merely employed to provide a certain work and is not a servant, liable to detailed control as to the manner of production, the copyright vests in him and not the employer. And, even in the case of a full-time employee, work done for the employer out of hours will remain the copyright of the servant."

For the whole of that second portion of the paragraph the writer can find no more support in the Act than the words "in the course of his employment" used in the first part. The final sentence of that paragraph is calculated to raise unjustified hopes in many a young employed photographer who reads it. No such contention has ever before been heard, to the writer's belief, in photographic or advertising or any other business circles. It may be recalled that the phrase "in the course of his employment" was used in the old Workmen's Compensation Act, and in that connection aroused an almost incredible amount of legal controversy ; yet it has been perpetuated in the new National Industrial Insurance Act. The writer is unable to find in the Copyright Act any justification for the barrister's very elaborate construction around that phrase.

Lawyers are usually so careful of their definitions that they often say "may" when they mean "almost always will." Therefore when they say "will" (as in the final sentence of the above quotation) it is liable to be taken as indicating certainty. Consequently many an employed photographer, reading that authoritative article, will naturally assume that he owns a great number of copyrights which are in fact those of his employer or of some client of the latter's. This is all the more the case because in certain branches, as for example advertising and press photography, work is so frequently done "out of hours."

PRACTICAL EXAMPLES

Where a manufacturer has had prepared for him an advertising catalogue there may be half-a-dozen or more artists and writers, including photographers and their assistants, working on the job. It is all on the cards that at least some of them will be working "out of hours" at least some of the time, and that few of the advanced workers among them will be "liable to detailed control as to the manner of production." They may work late or at the weekend either because they like working in peace, because they were asked to, or because the subjects are only then available. Is it to be suggested that a time-sheet should be recorded for each subject to show who handled it and when, and that the manufacturer next year must contact half-a-dozen different copyright owners of whom he has never heard, in order to ask their several permissions to re-issue his own catalogue ? Many practical parallel examples occur daily and no suggestion has

ever reached the author from elsewhere that a photographer working out of hours becomes the owner of his employer's customer's copyrights !

It is the fact that Section 5 of the Act does give the copyright of a *literary work* to an author who is not "under a contract of service," but in the sub-section 5 (1) (a) *a photograph* is specifically excepted (see under "Valuable Consideration," page 20), and it is the copyright of the person by whom it was ordered. If it was not ordered but is made "in the course of employment" then under 5 (1)(b) the copyright is the employer's. It is probable that the barrister author of the article in question did not have in mind his many photographic readers who might be misled.

His paragraph which has been criticized above is in line with the Act so far as writings and drawings by non-employed persons are concerned. To photographs it clearly does not apply at all, and the author submits that in all commercial graphic and literary arts the general customs are such that in practice no line can be drawn between work done by an employee in or out of hours. On the other hand what an employee does for himself in his own time with his own apparatus and materials is nobody else's business, and any photographs he makes that way are his own copyrights.

STRANGE AUTHORSHIP

A new-born baby can be both author and owner of the copyrights in fine-art photographs ! If a photographer dies having bequeathed his business and his assets to his expected child, the latter when born will immediately become the owner of the business and so of the copyrights and of new negatives made in it. And the Copyright Act lays down that the owner of the negative at the time it is made shall be deemed to be the author of the work. If a woman business-owner, recently widowed, dies intestate in childbirth, the child becomes both owner and legal author of any further copyrights made in the firm. Similarly a traveller, lost in Tibet or behind an "iron curtain," can still be author and owner of British copyrights, produced in his absence. Again, if a schoolboy lends his father a camera containing a film, the son according to law will be author and copyright-owner of the pictures his father takes, even if the boy is away at school or asleep in bed at the time the photographs are taken.

COPYRIGHT IN FACES ?

A photographer is often asked : "Has one no copyright in his own face ?" The answer is that copyright is given only to an "artistic work." A face is a work of nature, not of art, just as is a poppy in a field. It might one day be claimed by a plastic surgeon that the face he had repaired or re-created was an artistic work, and therefore was his copyright. It might even be claimed by an actress that her "made-up" face was a work of art, and that to take a photograph of it without her permission was an infringement of her copyright. Many more such questions could be raised as intriguing subjects

for practice in debating societies. But until they have been decided in the Courts who can say finally yea or nay?

PHOTOGRAPHS IN CINEMAS

It is commonly supposed that photographs taken of the projected image on a cinema screen is infringement of the film, which is no more than a strip of copyright photographs. That would be so in the case of films copyright in this country, that is those produced here or in Convention countries, or those made say in U.S.A. and first published here. Other films than those, however, might not be copyright in Britain. Moreover, most photographers who attempt this work are amateurs, who do it for the sake of their own "private study or research," which is expressly permitted.

PHOTOGRAPHS OF TELEVISION

The question of copyright in televised images has been considered, but apparently not finally decided. Any photographer is perfectly at liberty to photograph such images for purposes of experiment (Section 2 (1) (i) clearly permits such "fair dealing") and his results would be his own copyrights. On the other hand it may occur that a press photographer is enabled, by photographing a televised image of a public event, to get pictures far more quickly to the press than his competitors who attend the actual event and have to travel from it afterwards before processing their results.

In the case of television transmitted via cinematographic apparatus, to photograph the transmitted image would be infringement of the copyright in the photographic cine film, but if the scene is transmitted by a scanning device it seems debatable whether the image can be regarded as "analogous" to photography (Section 35 (1)) because in the "process" some form of camera is used, or whether it is *not* analogous, because it is not a similar technical "process" using light-sensitive materials and chemicals, or because the image is merely a visual one in which no copyright exists under the Act. In the case of a televised play the argument might be raised that the dramatic work was copyright, but it could scarcely be sustained that a photograph of the stage scene is an infringing "performance" of the play, nor is it a reproduction of the written book. The only "artistic" work reproduced in a photograph would be parts of the painted scenery, if any.

The above paragraphs have been submitted to the B.B.C., who have commented that the question of copyright in televised images is unsettled at the present time, and that the author appears to state the position correctly.

COPYRIGHT IN THE SLOT

The little "portrait of your future spouse," and the "fortune," which issue from seaside slot machines are, however, copyright. The portraits are photographic "artistic works," and the "fortunes" are "original literary works." They were copyright before the owner of

the machine put a pack of them inside. On the other hand some of these productions are so old-fashioned that their copyrights may well have expired.

PHOTOGRAPHING MONEY AND MEDALS

The writer has often been asked whether it is not illegal to photograph money. In his opinion this is one of those many broad questions to which it is correct to say, "It all depends." If a person deliberately copies a banknote, that is an offence for which a criminal prosecution can be instituted, not only because to do so is infringement of copyright but also because it is forgery. If a person takes a photograph of one man handing coin or paper money to another in such a way that there is little doubt that the original was real money, but the result could not be described as a reproduction or facsimile, then it seems difficult to believe that any Court would decide that it was a "colourable imitation" of the money. On the other hand the point that the man's thumb obscured part of the money is not in any way relative, any more than is the custom in stamp albums to obscure part of the reproductions of postage stamps. Reproduction of a substantial part, in this country, is as much an infringement as is reproduction of the whole.

COMMON PRACTICES

It is quite a common practice in advertisements to represent the value of an article by a picture beside it of its price in actual cash, and in other forms of illustration to demonstrate the size of an object by comparison with a coin. The writer has himself made many such illustrations which have been widely published, but has never heard of an objection being raised. It might of course be argued that a pressman who snapshots celebrities at the opening of the Royal Academy is infringing copyright if a picture happens to be in the background (it often is), or that one is infringing the copyright in medals when one photographs a soldier wearing them. Again, a Factory Act notice is an "original literary work" the copyright of His Majesty the King, which no commercial photographer at some time or another can avoid including in an interior photograph.

If a coin is so old that the author of its design has been dead for fifty years no copyright exists in it. The question may be arguable whether the original design of a new coin is a pattern or model for multiplication by an industrial process, and therefore capable of being registered as a design under the Patents and Designs Act, 1907. If so it seems to be excluded, by Section 22 of the Copyright Act, 1911, from the benefits of the latter.

PHOTOGRAPHS NOT ALL COPYRIGHT

Ancient photographs may be time-expired, or they may never have been registered. The photographs may have come from countries not in the Copyright Convention, and may not have been first published within it. Probably the most important class of photographs which are not copyright are automatic photographs.

AUTOMATIC PHOTOGRAPHS

The only photographs which can be copyright are "original artistic works." The law does not discriminate nor lay down rules upon what art is or upon how much of it must be exerted to make the result "artistic." It is indisputable, however, that photographs can be automatic, that is taken without any artistic selection or other form of control, and further that the purposes of certain kinds of photograph would be completely vitiated if such control were possible or applied.

Can it be said that if a person, child, or dog sits on a fixed stool under fixed lights, and a coin is dropped into a slot to actuate the machine, that the machine produces an "artistic work"? Yet, if there is an attendant, who directs the sitter to "look" in various directions or attracts the attention of the dog at the essential moment, obviously there is a measure of artistic control, though the machine itself is automatic. The attendant, for aught one knows, may be an extremely competent photographer, or no photographer at all. But there seems to be enough artistic effort to create copyright and this belongs to whoever dropped the coin into the slot.

There are, however, other more important kinds of automatic photographs. For example there is the photograph which determines the winner of a horse- or other race. The direction of the camera is fixed. The exposure is fixed. It records whatever happens during the time the mechanism is in motion. The result is as much, and as little, an "artistic work" as is the "music" of a bomb, or the "sculpture" that a bomb sometimes produces. What skill has been exerted is in the design of the apparatus, and apparatus may be patented and in some cases registered as a design, but neither it nor its automatic result can be copyright.

GRAPH MACHINES

Then there are photographs like those produced by a photoaudiometer, which records sound as a wavy line; the cardiograph, which does the same for human heart beats; and the seismograph which similarly records earthquakes. Their results are automatic photographs. There is the dental X-ray; there is the finger-print camera with its self-contained fixed lights; and the aerial camera which goes on taking photographs in regular succession so long as the pilot (often ignorant of photography) keeps his foot pressed on the pedal. Does the requirement that he keeps the plane flying straight and level at a constant speed constitute the "art" of an "original artistic work"? The writer thinks not, but will readers kindly not assume that his opinion has any force of law?

IDEAS NOT COPYRIGHT

Many years ago the writer wrote an article on one of the various technical "notions" which since boyhood he has always been fond of evolving. The manuscript was among other papers in his office

desk. There were no illustrations. On his return from holiday he was astonished to read an account of his invention in a periodical different from that to which he had intended sending his contribution. His original manuscript was just where he had left it. It was subsequently discovered that one of his young assistants had read and had paraphrased the article in question, and had sent it in as his own composition, which in fact the printed article was ! It was not a sufficiently "colourable imitation" of the original wording to constitute an infringement of copyright, and the writer had no practical remedy for the pilfering of an idea which he should have locked up.

Nor has a photographer a remedy if someone photographs the same or a similar subject to his own, even if an almost identical result is produced by adopting the same point of view and other procedure. There is no copyright in ideas, nor in any subject, unless that subject is itself a copyright artistic work. Yet, if one has permission to photograph the latter or if it is one of the types of subject, like public statuary, which requires no permission, there is a new copyright in each photograph of it.

DIVORCE AND COPYRIGHT

If a man has a unique possession, such as an antique sampler, a giant gooseberry, or a beautiful wife, and he takes photographs of any or all of them, those photographs are his copyright. If anyone copies any of those photographs, or embroiders a sampler from his photograph without his knowledge or permission, he may sue that person for damages, or he may be entitled to prosecute that person in the police court. It does not follow automatically that he will obtain punitive damages or that the offender will be heavily punished.

If a person steals the sampler, the gooseberry, or the wife, and takes photographs of them, the injured party may prosecute him for theft in the case of the first two, or may join him as co-respondent in divorce proceedings in the third case. But the photographs will not be infringements of copyright, and he has no copyright protection. On the other hand, under Section 11 (2), if the erring wife or her lover have in their possession some of the photographer's negatives of her with the idea of making prints from them, that is an offence for which she or he may be fined up to £50, and for a second offence may be sent to prison with hard labour. The fine of £50 would not be compensation ; the owner of the negatives would not get it.

On the other hand Section 16 (4) of the Act lays down that where there is joint authorship between a married woman and her husband (as there would be if they were business partners) the interest of the woman is her separate property.

FILMS ARE "PLATES"

The Copyright Act defines "Plate" as : "including any . . . negative used or intended to be used for printing or reproducing copies of any work"

COMBATING THE PIRATING COPYIST

The "crayon-enlargement" swindle, operated by house-to-house canvassers on gullible housewives, persuading them to buy rubbishy enlargements at high prices to the detriment of established studios, and also the cut-price copyist of commercial photographs, have persisted from comparatively early times. They are business troubles with which every professional photographer becomes familiar, but they are not combatable by normal business or legal means. Even if, as rarely happens, they infringe an individual photographer's copyright, the offenders are usually elusive and difficult to track down; still more difficult to sue or to prosecute successfully.

The presence of such gentry in a town is often sensed, rather than observed, by a sudden wave of customers requiring one print only of a portrait or the like. One photographer found an ingenious method of dealing with this problem, namely by dry-mounting prints with a sheet of fine wire gauze, or even muslin, in contact with the print. Two successive fairly long impressions are advisable, with a slight shift of the gauze between them. The full benefit of this dodge is best realized by trying it. It produces a faint but pleasing watered-silk surface-sheen which is liable to become harsh and greatly exaggerated in enlarged copies. On the other hand commercial photographers must turn out first-rate prints on glossy paper. These are essentially suitable for copying and one fears they have as yet no satisfactory technical remedy against the cut-price copyist.

RETOUCHING ARTISTIC WORKS

The owner of the copyright in a photographic work of art may do what he likes with it. But if he alters it in any way such as by retouching or by combining it with other matter, he may not publish it over the author's name as his work. If he does so and the latter feels his professional reputation as an artist is harmed by the alteration in his work he has a legal remedy. That is an offence under Section 7 of the Fine Arts Copyright Act of 1862 which is still in force.

CHAPTER 5

Possession of the Negative

NO AMATEUR PHOTOGRAPHER, it is assumed, has any doubts as to who owns the negatives he makes. The professional photographer is in a less happy position. He has had to fight at least one expensive lawsuit to establish his ownership of negatives. Probably no professional photographer in the world has escaped being told, at some time or other by an impatient client, "I paid for the negatives to be made. They're mine. I want them!"

A LEGALLY ESTABLISHED RIGHT

It has been decided as the result of action in the Courts that, by common law and by a century of usage, negatives are and remain the property of the photographer, unless the contract specifically provides otherwise (*Boucas v Cooke* (1903) 2KB227). Whether or not a professional photographer parts with the negative to his client is entirely within his own discretion, and so is the value he asks for it. The Institute of British Photographers puts the value of parting with the negatives fairly high. The reason for a client asking for them is almost always the expectation of obtaining future prints at a lower cost than the original photographer would charge, either by the client making them himself, or by getting a cut-price firm to make them. Where it is suspected that the client who owns the copyright intends to obtain reprints elsewhere at a low charge, the above legal ruling is obviously advantageous to the photographer. If the photographs are of a quality which copying would degrade, and still more as a matter of principle alone, it is wise to uphold the advantage which has long ago been fought for and secured ; that is, to retain the negative. The only time a photographer loses the privilege is if he is sued for infringement of copyright (page 34).

WORDING INVOICES

There are many industrial and advertising firms who, on similar but reversed principle, give written orders to photographers in the form "Supply negative and one print," so as to try to get possession of the negative for their own future purposes. In order that no "thin end" of custom should weaken their case established at great cost, photographers should studiously avoid any mention of negatives in business literature. Accounts should be for "Taking x photographs of your (description) machines, and supplying x prints of each," or "Half-dozen portraits of your wife, in Suzette style," or "On your instructions attending at your works on the (date) to take photographs, submitting various proofs. Subsequently supplying prints as follows"

LENDING NEGATIVES

Where negatives are bargained for and handed over to the client, an invoice or a letter, as the case may be, should clearly show the charge for supplying the negatives, or should state the specific reason for doing so without a charge. Occasions when no charge may be justified are, for example, when the negatives are numerous hand-camera shots, of which only a few selected ones are used for a transitory purpose of possibly future historical interest ; when the subjects are of governmental " security " nature ; when they concern a law-suit of sufficient importance to warrant having the negatives stored in a bank strong-room ; and when the purpose of the photographs is a catalogue or the like to be printed in photogravure. In the case of that process printing plates are made from positive transparencies, and better technical quality is frequently obtained if the printers can make these direct from the original negatives rather than from new ones copied from the prints. It may be good policy to make a point, when so sending negatives " on loan," of courteously making it clear that one does so as an act of grace even if it happens to be true that by the time they are returned they will be no further use, except for waste glass or celluloid.

On occasions when a professional photographer agrees that the client shall have the negatives either on loan or permanently without a fee, the appropriate procedure is to send a " no charge " invoice. This avoids " establishing a precedent " (the legal term for " thin-end-of-the-wedge ").

AVERTING DISPUTE

It need never be necessary to antagonise a client when the point of negative-ownership and purchase threatens a dispute. While pointing out that it been so decided in the Courts, it can be explained that a dentist does not usually supply the patient with the X-ray negatives, nor with the impressions for the denture, although they were essential to its making. Nor does a tailor send the pattern with the suit. If one can find a similar parallel in the client's own business he is at once completely disarmed. It may not be wise to insist that storage-space, insurances, and indexing cost money, although they do, since the client may retort that by handing him the negatives one is reducing those expenses ! On the other hand there is no law which compels a photographer to store the negatives after he has made the prints originally ordered.

CHAPTER 6

Turning Professional

AT ONE TIME IT WAS enough that a photographer had a modicum of skill and capital, however small, and wished to make a living. Now, when he becomes a master-man, or turns from amateur to professional status, he immediately becomes subject to numerous special laws, as well as to some important local considerations. He is not automatically made aware of his new responsibilities, though if not forewarned he may come up against one or more of them unpleasantly, even seriously.

For example, when young William Brown sets up his sign as the "Snapshot Shop" or "Da Vinci Studios", or merely as "Bill Brown", or again as "W. Brown", though a kindly aunt or other "sleeping partner" is somewhere in the financial background, who is there to warn him that he is breaking law unless he "registers" that "business-name," and that if he is reported and prosecuted he must suffer penalty? Who is there to comfort him with the advice that for 5s. and a filled-in form he can avert all trouble once for all? (see Chapter 10). Who is there to tell him where to register, or must he pay his 10s. 6d. to a solicitor every time he asks a question?

Spare a thought for Focusem, the small-town portrait man, who has a tiny shop and studio, with a room or two upstairs. His staff of two or three work upstairs or down as occasion calls. How is he to know that, as regards permitted working hours and other matters, each part of his business is far more widely separated and watertight in law than are an admiral's promotion and divorce? For thirty years old Focusem has depended on the Christmas rush to pay his rates, when suddenly his printer elects to emigrate or contracts measles. So Jean, his promising little sales-girl in the shop, offers to stay all night, to help to stem the tide and get the customers' portraits out in time to catch the Christmas mails for home and overseas.

MAY SHE WORK?

If Focusem is to make sure to what extent he may, without the risk of punishment, accept that helpful offer, how is he to know that he should first see Jean's birth-certificate; that next he should consult and tot-up his overtime records (separately for shop and workrooms) for the past twelve months; and that finally he must allay his anxiety with an aspirin or two, and settle down to work out as pretty a word-puzzle as you would find in "Fleet's Home Entertainer" or in a civil-service examination intelligence-test? (See (d), page 57.)

QUESTIONS THAT CROP UP

An amateur or professional photographer may unexpectedly encounter sudden trouble. He may discover that a picture that he

once sent to an exhibition has been reproduced in some guide-book or a periodical, or as a picture postcard (see Copyright, page 18). Or perhaps he is alarmed by a letter from a lawyer, who writes indignantly demanding redress for a client whose photograph has been published in a slightly humorous advertisement (see Libel, page 103). Perhaps, again, he bought a camera while on holiday abroad, and feels the Customs officer treated him unjustly ; or maybe an admirer of his work suggests he should set up in business by producing his own series of view post-card and calendars (See Purchase Tax, page 75). To state the Law, in all its panoply and mystery of words, is one thing To carve it up, and to boil it down to a photographer's occasions and emergencies, is quite another and is the endeavour here.

A PROFESSIONAL'S ADVANTAGES

It is true that, besides new responsibilities, a self-employed income-tax payer has advantages that an employee has not. For example he can charge as a business expense the appropriate mileage of his car between his home and business, whereas an employee may not. Also if he works wholly or in part at his private house he can charge as an expense a proportion of his Schedule A assessment, as well as of the rates and other outgoings. To gain this he should disclose how many rooms he uses in a business way and of each one whether partly or entirely.

On the other hand he would not be safe in assuming that even outright ownership of a freehold house allows him to do business in or from it. Many title-deeds prohibit uses other than for residential purposes, but usually make relaxation in favour of doctors, dentists, and solicitors. The name-plate of an accountant, a music-teacher or the like, though strictly speaking barred, is rarely objected to ; while writers, as well as artists in many arts and crafts besides photography, work at their homes without disturbance. It would certainly be difficult to prevent them !

IN A PRIVATE HOUSE

On the other hand when the writer, living in his freehold house in a suburban district, one hot day typed some manuscript in his garage because it happened to be coolest there, a neighbour complained at the Town Hall that he objected to a "typing office" being carried on next door. The writer was later visited by an official and called upon to give an explanation. The latter was invited to inspect the alleged typing office in full operation. It consisted of a card-table and a packing-case for seat. No action ensued. Yet even the Royal Photographic Society, which is a "learned" and artistic body, and not a professional one, found itself up against strenuous objections from aristocratic-minded neighbours when it moved to Prince's Gate in Kensington.

In many districts, new and old, one finds the boards of piano-tuners, chiropodists, carpenters and taxi-men, corset-agents and even chimney-sweeps, on houses which originally were strictly "residential

only." Where in the varied scene does the photographer fit in? It depends on the kind of the photography, on the photographer himself, on the particular district and, not infrequently, on the reactions of his neighbours. The photographer should be able to satisfy the local authorities that he is a member of a dignified profession (see page 147), that his work can in no way annoy his neighbours, and, indeed, that his business adds to, rather than detracts from, the particular local amenities. If he can show that arts or trades of equal or lesser grades are carried on in similar houses thereabouts he should not need to fear disturbance. For all that, town-planning schemes do sometimes interfere even with businesses which have been in existence for some time in residential districts. Usually this is more likely to occur when evidence of that business is over-prominent.

WHAT IS A "FACTORY"?

If more people than one do photographic work for money to the knowledge and agreement of the owner or occupier of the premises, then that workplace is in law a "factory." That is so even though those persons are "self-employed" and the place is the home of one or more of them. Certain conditions should be complied with, and a factory inspector is empowered to enter at all reasonable times (see Chapter 7).

OPENING A SHOP

Occupation of shop premises straightway brings with it responsibilities under the Shops Acts of 1912 and 1934, as well as under the Shops (Hours of Closing) Act, 1928, and Shops (Sunday Trading Restrictions) Act, 1936. The last-named may, in point of fact, affect a photographer who has nothing that a non-lawyer would term a shop. On the other hand shop-keeping photographers are favoured by at least two important concessions which have been gained for them, while those in holiday resorts may enjoy still further relaxations. Chapters 7 and 9 deal fully with these matters.

WHAT IS A "SHOP"?

Legal definitions and uses of the simplest words are not always the same as those found in a dictionary, nor always those of common conversation nor always the same in different laws. (In respect of word-usage photographers have also cause for shame.) Premises where goods are sold or work is done in the way of retail business may be regarded as a "shop" for all normal photographic purposes, but under the Sunday Trading Restrictions "*any place, elsewhere than in a shop*" where such trade or business is carried on becomes a "shop" on Sundays! Yet some such "places" are excepted (see Chapter 9).

Matters relating to shops may fall under one or other of several heads, quite apart from ownership, rental, or employment of staff. The proprietor of the business may work in the shop whenever he pleases, but he may admit customers only within certain locally-specified times, and on certain days. The fixing of the latter is not

entirely within his discretion ; nor are the times and days when staff may work, and these two considerations are not necessarily alike in their effects. The essential points concerning working hours for staff are dealt with in Chapter 7.

TAKING A TENANCY

The writer does not wish, nor has he the ability, to embark on detailed advice concerning the law of landlord and tenant, which are pretty well the same for everyone, but extremely complicated even for a lawyer versed in them. A photographer, before taking a tenancy, should adopt the same precautions as every other sensible person does, and consult his solicitor before signing any document. He should do more than that. He should instruct his lawyer what he wants to do in the way of business, in case there should be restrictions in the document submitted which would interfere with his particular proposals. He should also note precisely what are the premises which he inspected, and whether they are correctly specified in the agreement, or not. It would be extremely awkward if he found he had agreed on paper to take certain rooms, but that the very room in which were situated the water and electricity supplies was merely one which he had been allowed to glance into but was not included in the tenancy. It would be even more awkward if he took a tenancy of upstairs premises and found that he had no rights of ingress and of egress ; that is, of getting into them, or if he managed to get in, of getting out again ! He cannot expect his lawyer to be a thought-reader on his special requirements or desires, though the latter can usually be relied upon to see that reasonable rights are included in the agreement.

The writer once almost concluded negotiations concerning a new office in London very suitable for his business of commercial photography, when he was confronted with a document which he was asked to sign. On careful reading it was plain that he might not enter the premises between noon on Saturday and 9 a.m. on Mondays, and not at all on any weekday before 9 a.m. or after 6 p.m. He was verbally assured that by an unofficial arrangement with the resident house-keeper he might obtain admittance in the restricted hours, but he saw no good reason for depending for a large measure of his livelihood upon the problematic or purchaseable favour of a housekeeper.

DILAPIDATIONS

When entering upon a lease of premises, especially if they be old, the photographer will do well to make a detailed inventory of the condition of the premises. On giving up his first offices in London at the expiration of a three-year tenancy the writer received a lengthy bill for numerous alleged "dilapidations" including missing fittings and parts of ancient lincrusta friezes and the like, which clearly had been virtually non-existent for very many years ; and this despite that he had at his own expense decorated and improved the rooms. He was advised that, having regard to the terms of the lease, it would

be cheaper to pay up than to fight the case, despite the probability that previous short-term tenants in succession had paid similarly for those same "dilapidations" many times over!

A photographer should himself avoid causing undue deterioration to rented premises. It is not unknown for drips and splashes of fixing-baths on walls and floors to accumulate and to rot, in course of years, the plaster, bricks and wood, with the result of a substantial bill for repairs.

FIXTURES AND FITTINGS : TELEPHONE

Generally speaking, those fixtures which can be classified as trade, domestic or ornamental can be removed at the end of a tenancy by the outgoing tenant; although this rule is to some extent qualified by the fact that those fixtures, irrespective of how firmly they are fixed to the property, which have become part of the constructional or scenic design of the building become the landlord's fixtures and so cannot be removed. But it should be remembered that the law is by no means decided on the exact interpretation of these rules and that each disputed case will be judged very much on its own merits. In this connection he may not remove the telephone, but may ask the Post Office to transfer it to his new address, and such removals usually have priority over new installations. On the other hand when taking over premises in which a telephone exists a photographer would do well to make sure that, either in the tenancy agreement or elsewhere there is a written undertaking (by the landlord or by the outgoing tenant as the case may be) that the Postmaster-General will be asked to allow the incoming tenant to take over the existing telephone installation and the agreement in respect of it. Otherwise the photographer may have to wait his turn in an extremely long queue of new applicants.

CONSULT AUTHORITIES FIRST

When negotiating a purchase or a lease of business premises solicitors are accustomed to making local "Law Charge Searches" but this procedure does not usually arise in the case of renting rooms or workshops. In any case an intending tenant will do well to make enquiries of the borough surveyor or other appropriate official at his town hall, to discover whether any difficulty is likely to arise, say under the Town and Country Planning Act of 1947, or other regulations. Especially with regard to new premises and to new ventures of any substantial consequence, so great (at the time of writing) has been the spate of new legislation that it has been virtually impossible for local officials to digest it thoroughly: consequently they are often chary of giving positive assurances, in case the advice they give may contravene a new point in a new law which they may have missed or misread or even not yet read. Certain towns have their own local legislation and their own Town Planning concerning future development, and these may not be known outside the municipal offices.

In addition to the importance of seeking such advice before completing his arrangements for setting up his business, it is now

compulsory, under the new Factories Act of 1947, to give a month's notice to the factory inspector of intention to occupy workshop premises as such for the first time, and if he is not satisfied that they are suitable it is within his rights to forbid such use of them. This power would be more likely to be exercised most forcibly where it was intended to employ women and young persons.

BEFORE EMPLOYING STAFF

As soon as a photographer needs help, he should be prepared for fresh responsibilities. A male adult will have at least a card on which an insurance stamp each week must be affixed, besides his record for P.A.Y.E. A school-child working now and then requires no card, but a medical certificate. Every young person under 18 who starts work in a "factory" must now be medically examined by the "Appointed Factory Doctor." Many of the other requirements concerning shops, workshops and employees are both confused and confusing, but Chapter 7 and 9 should make their aspects for a photographer tolerably clear. Some of the regulations differ for holiday resorts, and some do not apply to Scotland.

MISCELLANEOUS CONSIDERATIONS

At the time of writing the lighting in a shop window is subject to restrictions, and there are separate problems concerning the lighting of a studio and of the workrooms. Water-supply (or rather how it is carried off) may be an intensely practical problem. Chapter 16 should be referred to on these points. There are certain posters to be put up in the shop or workshop, and if more than a certain weight of celluloid film is stored there are other things to do. The shop must close at certain times, but workshop regulations are entirely different. All shop assistants must have facilities to wash themselves, but those in the workrooms must be provided also with free soap and towels. And so it goes ! The index should provide the clue to any item needed to keep the official wolf from the door. The author offers no efficient formula for the other kind of wolf.

CHAPTER 7

Workshops : Shops : Employment

A PROFESSIONAL PHOTOGRAPHER MAY WORK alone, or may own a business in which he employs assistants. Again, he may work with a single partner, or he may have a shop where he or someone else takes orders or where materials are sold. He may fix up a room behind the shop as a studio but may have the processing done at other premises. In another case he may have workrooms on the same premises as the shop, or he may have workrooms but no shop. His camera work may be done entirely out-of-doors, or at his clients' premises, and so may be his sales.

In all these varied cases the workers may be male or female, adult or young, or some of each. The laws protecting the workers overlap and vary as between a shop and workshop, and as between the various ages and sexes of the workers. Even while this book is being written certain of the relative laws have been changed, and the text has accordingly been brought right up to date.

It should be pointed out, moreover, that for forty years the author worked in studios and darkrooms, that is in "factories," sometimes with "shops" above, beneath, or in front of them. For nearly twenty of those years he had his own "factories" in London, with the panoply of prescribed proclamations prominently posted up for daily observation. Much of his work lay in other peoples' factories where he had ample opportunity for noticing observance, or otherwise, of rules; while much of his work for lawyers concerned results of breaches of those regulations. Therefore it need not be thought that what he offers is confined to "paper law."

THESE CONTROL EMPLOYMENT

The photographer with a shop and studio may think that much of what he does for those who help him is kindness or merely custom. Some of it is, but apart from all the laws which deal with rental problems and with those concerning water, taxes and the like, there are a baker's dozen of Acts of Parliament which govern when he may keep open and take orders, and when he may have people working. These are: The Factories Act, 1937 (which now includes the Celluloid Regulations of 1921); The Electricity Regulations of 1908 and 1944; The Shops Acts of 1912 and 1934; the Shops (Hours of Closing) Act, 1928; the Shops (Sunday Trading Restrictions) Act, 1936; the Children and Young Persons Act, 1933; the Hours of Employment (Conventions) Act, 1936; the Children and Young Persons (Employment) Act, 1938; the National Insurance Act, 1946; the National Insurance (Industrial Injuries) Act, 1946; the Factories Act, 1948; and the Young Persons (Certificate of Fitness) Rules, 1948.

Neither last nor least, the Copyright Act of 1911 has bearings on the relations between a photographer and his staff (see Chapters 3 and 4), while even the Lord's Day Observance Act of Charles II (see Chapter 9) is still unrepealed and if there is a swing in public opinion towards a stricter Sunday, it may still exert its influence on employment in some photographic businesses.

What shall it profit a photographer to be told which name, of all the many overlapping Acts of Parliament that govern him, is the one that rules whether Jack should have a holiday, or which law applies when George is struck by electric-shock or by metol-poisoning, or to storing film negatives? All a photographer really needs to know is what should, or may, or may not be done in any given circumstances. To sort that out for him is the author's purpose.

OPENING HOURS FOR SHOPS

A shop may be open for business within certain fixed hours, usually decided locally. It must be closed on one half-day a week from 1 p.m. The early-closing day is also decided by local custom. The shop must be closed on Sundays, but there are exceptions to both rules, for which see Chapter 9 on Sunday Trading. A further exception to the early-closing rule is that the shop may be kept open on the early-closing day preceding each Bank Holiday.

These rules do not bear at all upon the days and times when staff may be employed (see page 56). For adults of either sex employed in shops there are no rules on this point beyond that they must have a half-holiday per week (which may but need not be the early-closing day) and that if they work on Sundays and in holiday resorts on certain of their half-holidays they must have full-paid holidays in lieu (see pages 54 and 67). In shops certain forms must be kept "exhibited" (see Chapter 13).

WORKSHOPS MAY BE EVER-OPEN

A "factory" or workshop may be open all days of the week, and all nights too. That also bears no relation to the times when female or young staff may be employed. Regarding employees there are many more detailed restrictions and provisions than for a shop. Certain notices must be kept posted up where all can read them, and other documental records must be kept up-to-date for inspection on demand. There are conditions about the actual building, about the age and sex of those employed, according to the kind of work they do, and so on. Particulars will be found under the appropriate heads.

OVERCROWDED AND UNDERGROUND ROOMS

As to any room which it is proposed to turn into a workroom the factory inspector must be notified at least a month before, and if he decides it is unsuitable that ends the matter. If any hot, fuming, wet or dusty process is to be used in any underground room the consent of the factory inspector must be first obtained. Legally permissible air-space in a workroom is not less than 400 cubic feet for each person

in the room, with satisfactory ventilation, safety from fire, and reasonable temperature. Many small darkrooms contravene these conditions.

“FACTORY” NOTICES, FORMS, ETC.

In every factory or workroom there should be posted up where all can read them : “Form 1, Abstract of the Act.” On this should be written certain particulars specified on it. Also, where women and/or young persons under 18 are employed, “Form II, Notice of Hours.” An official accident book must be kept available for recording accidents of any kind to staff and a General Register is needed for recording names and medical examinations of young persons, together with dates of whitewashing the premises, etc.

In all workshop premises where electricity is used “Form 954, Electricity Regulations” should be exhibited, and where the voltage exceeds 125 A.C. or 250 D.C. an electric shock placard must be posted up (see Chapter 16).

(N.B.—A photographic studio is often such premises. Where films are stored and processed “Form 980, Celluloid Regulations” is required. These details are tabulated on page 90).

ACCIDENT PREVENTION

All electric appliances used in factories and workrooms should be properly “earthing.” The three-pin plug system is essential for detachable apparatus used with flexible wiring. Moving machines should be fitted with suitable guards to prevent the chance of accidents, and a specified first-aid box must be installed. Every accident to staff must be entered in the official accident book, and every accident which disables the victim for more than three days following that on which the accident occurred must be notified to the factory inspector, and to the local National Insurance Office.

AIR-COMPRESSORS

Retouchers who use air-brushes (spray-guns) or similar apparatus comprising air-compressor tanks should have the latter examined not less often than 26 months, by a “competent person.” His report should be entered in or attached to the general register.

SANITARY ARRANGEMENTS

In shops “suitable and sufficient” sanitary arrangements must be provided for assistants. In “factories” the requirement is more specific. They must be separate for the sexes, and in other respects there are statutory minimum standards. Drinking-water and suitable vessels must be provided, in addition to suitable washing facilities. In workshops the latter must include soap and clean towels.

If workrooms are painted with oil-paint or varnish they must be repainted every seven years and cleaned with hot water every fourteen months. In other cases they should be whitewashed or colour-washed every fourteen months, while in either case particulars should be entered in the General Register.

HALF-HOLIDAYS IN SHOPS

Every shop assistant, of whatever age or sex, is entitled to a half-holiday, usually from 1-30 p.m. It need not be the same day as the early-closing day, and it need not be the same day for all assistants, provided that a schedule of half-days is posted up on Shops Form 1, but it must be on a weekday.

Shop assistants under 18 may work longer hours than those in workrooms (see table, page 56), and no shop assistant has a statutory right to other holidays excepting as below.

SHOPS IN HOLIDAY RESORTS

Certain of the Shops Acts provide for special relaxations for traders in holiday resorts and the like, where business is concentrated into a short season. The regulations are extremely involved, and are most easily understood by stating their broad conditions in brief terms of the shopkeeper's requirements. This subject is more fully dealt with on page 67. A photographer or photographic dealer in a resort might desire—

- (a) To keep his shop open on early-closing days.
- (b) To have staff working then.
- (c) To open his shop on Sundays.
- (d) To have staff working then.

In order to open shop on early-closing days, a majority of those in a trade may obtain an Order, by application at the local Town Hall, for a period not exceeding four months. [Shops (Hours of Closing) Act, 1928. S.6]. Any adult assistant who works on those half-days (under 18's may not) and who does not get a half-holiday in the same week, is entitled to compensation. The regulations about this compensation are complicated and rather difficult to compute. The usual custom is to employ the assistant on all the half-days during the period and to give him a fortnight's holiday on full pay.

A somewhat similar Order to the above may be applied for to the same authority, to enable traders to open their shops on not more than eighteen Sundays in the year. This is under the Shops (Sunday Trading Restrictions) Act, 1936. An adult or juvenile shop-assistant may be required to work more than four hours on a Sunday, but must in any event be given a paid whole holiday in lieu on a week-day in the previous week (for fuller details see page 67). These relaxations do not in any case apply to workrooms or to those employed in workrooms, nor in any event do they give any extension of the limits of permitted working hours for young persons in shops in the table on page 56.

FACTORY WORKERS : MALE ADULTS

Every employed person who takes photographs in a studio (see page 66) or who works indoors mainly with apparatus or materials, whatever his professional status is in law a factory worker, and the room or rooms in which that work is done becomes a "factory." Provided that the premises are suitable and the prescribed arrange-

ments are complied with, no restrictions whatever are imposed by law upon the employment of male adults over 18 *in factories*. This means that only social customs, trade union rules (if any), common-sense and the necessity for sleep, forbid the continuous employment of men for 24 hours per day, 365 days per year! Adults of either sex *in shops* must have one half-day off per week, but are not normally entitled legally to any other holiday. The only exception to this is contained in the Lord's Day Observance Act of Charles II which even the Government ignores to-day (see page 64).

“ WOMEN AND YOUNG PERSONS ”

In a “factory” no woman nor a young person under 18 may work at all on Sundays, nor on Saturdays after 1 p.m. The four Bank Holidays, Christmas Day and Good Friday are also compulsory holidays for those of them who work in factories, except that other weekdays may be substituted for these days by giving proper notice on Form 11, at least three weeks in advance.

Women in managerial positions who do little if any manual work are exempted from these rules, as well as from the restrictions upon hours. Women shop assistants are not classed with young persons, and are not subject to limitations of working hours, except that they, like all shop-assistants, must normally be given one half-day per week.

PERMITTED WORKING HOURS

Even lawyers do not always find these rules straightforward, and in some cases it may be necessary to work out a time-table and a set of rules for each member of the staff, especially where rush times are liable to occur unexpectedly. The table and notes (appearing on pages 56-57) classify the normal times permitted to be worked in shops and factories so far as the rules apply to most photographic establishments.

Particulars of exceptions not quoted here are obtainable by reading Factories Act Form 1, or Shops Act Form H respectively. These are in any event required to be posted up for reference in such emergencies. Explanation of them, when in doubt, should be sought from the responsible official shown.

Should a reader find this chapter somewhat complicated will he be so kind as to refrain from blaming the author? He has spent very many arduous days in trying to extract and crystallize, so far as that is possible, the most important details of the many regulations which are likely to bear upon the business practice of photography. One may perhaps be permitted to express a hope that one day a government-supported organization like the British Standards Institution, which helps industrialists to simplify and standardise such things as screw-threads, tractors, rope, will start to try to do that same with laws.

INTERVALS

In the workrooms, women and young persons may not work longer than $4\frac{1}{2}$ hours without a break of at least 30 minutes. If an

	Not before	Not after	DAILY MAXIMUM Hours including intervals	WEEKLY MAXIMUM Hours	Half-holiday	Sunday	Holidays	Responsible Official
FACTORY STAFF	Women and under 18's	7 a.m.	8 p.m.	11	9	48		
	Under 16's	7 a.m.	6 p.m.	11	9	44 (c)		
Maximum with Overtime in Factory	Women and under 18's	7 a.m.	8 p.m. (b)	12	10	1 p.m. Must be Saturday	No work	Christmas Day, Good Friday, Four Bank Holidays (c)
	Under 16's							Factory Inspector
SHOP STAFF	Under 18's	6 a.m.	10 p.m.	13	(d)	48		
	Under 16's	6 a.m.	10 p.m.	13	(c)	44	1-30 p.m. Weekday (e)	(g) Town Clerk
Overtime in shop	Under 18's							
	Under 16's							

(Indicating letters refer to notes below)

Explanatory Notes

The times stated in the above tables apply to "women and young persons under 18" in factories; but only to young persons under 18, and not to women, in the case of shop-assistants. They do *not* apply to :—Male adults (excepting as note a), Women shop-assistants (excepting as note b), Young persons under 16 of school-age (see note c).

(a) Male adults of 18 and over are not restricted as to hours, excepting that those working in shops are entitled to a weekly half-holiday.

(b) Women over 18 in factories have all the privileges of under 18's except one; namely when working overtime they may be required to work till 9 p.m. (though no longer hours in all). Women over 18 in shops have no privileges over male adults concerning working hours. (But seats must be provided for their use, and also in workrooms during intervals).

(c) For children of school-age there are special restrictions (see page 59). During the rush Christmas fortnight young shop-assistants under 16 may work 88 hours, but not more than 48 in either week.

(d) The daily maximum working hours for

a young person in a shop may vary slightly, because according to the time he starts so do the minimum meal and rest intervals he must enjoy. The official rule (on Form H) is : " Restrictions on night employment : Every young person employed about the business of a shop must be allowed an interval of at least eleven consecutive hours in every period of twenty-four hours between midday and midday, and this interval must include the hours between 10 p.m. and 6 a.m."

The main effect of this provision is that one may not legally require anyone under 18 to work in a shop before 6 a.m. or after 10 p.m., nor in any case for the whole period between those times. That period is limited by these seven factors—

(1) The eleven hours rest. For example, a young person who finishes work at 8 p.m. may not begin before 7 a.m. next morning.

- (2) Intervals for meals, etc.
- (3) The weekly maximum of 48 hours.
- (4) Overtime provisions.
- (5) Half-days.
- (6) The practice in the district.
- (7) The co-operation (or otherwise) of the young person.

In point of fact this particular provision is nowadays virtually irrelevant, because in this particular matter (as in the case of "male adults in factories" above), modern customs have far outgrown conditions of employment permitted by the law.

(e) In a shop the weekly half-holiday is compulsory for all assistants irrespective of age or sex. It must be on a weekday, but it need not be on the early-closing day nor need it be the same for all the assistants, provided that a schedule is posted up in the shop for all of them to see. No special form is needed or supplied for this. In some holiday resorts there may be a modification for adult shop-assistants' half-holidays (see pages 54 and 67).

(f) These compulsory holidays for women and young persons in factories may be replaced by other weekdays, subject to conditions stated on Form I and previous notice being given on Form II.

(g) The only compulsory holidays for shop-assistants (other than the weekly half-holiday) are where in certain resorts the weekly half-holiday rule is relaxed for adults and where assistants work in shops that are opened on Sundays (see pages 54 and 67).

extra break of 10 minutes is given during a spell of work, then 5 hours may be worked instead of 4½.

In a shop, a spell of 5 hours work (or 5½ on the half-holiday) must have a break of at least 20 minutes "during the course thereof" for the under 18's. If a young person works during the period from 11-30 a.m. to 2-30 p.m. an interval of at least $\frac{1}{4}$ hour must be given, and if the meal is not taken in the shop that interval must be 1 hour. If the young person is employed during the hours 4 p.m. to 7 p.m. at least $\frac{1}{2}$ hour must be allowed for tea.

The rules upon meal intervals do not apply where the only persons working are members of the occupier's family who live with and are maintained by him. Since one does not (or should not) work in mealtimes, they are not counted in the maximum permitted working hours. Officials in their offices count mealtimes in their own official working week, but not in the laws of shops and workshops which they "administer."

SCHEME OF HOURS

In any factory the scheme of working hours may vary on different days, but on any one day the hours must be the same for all excepting male adults. So must the rest and meal-times, and all must be stated clearly on the Notice of Hours, Form 11. Excepting where special conditions exist and permission is obtained the one exception to that uniformity is that workers under 16 may leave an hour earlier than others.

OVERTIME IN THE FACTORY

Overtime is calculated for the factory as a whole, and not for individuals. The effect of this is that whether only one woman or young person works overtime, or whether all of them work overtime, the period is the same and is debited to the total allowance for that factory of 100 hours in the year or 6 hours in the week. In every case, before such overtime is worked notice should be sent to the Factory Inspector on Form 22, and the entries made in the Register.

In photographic business practice, as in most other trades and professions, it has become customary to work all overtime only in the evenings. When any work is done by women or juveniles after 8 p.m. the record should be watched carefully, because each hour reduces the permitted 100 hours overtime available for a year's working. Therefore if staff can be persuaded for occasional emergencies to make instead a slightly earlier start than usual, namely between the permitted 7 a.m. and the usual 9 a.m., it will leave the "pool" of legal overtime untouched for times of extra pressure.

"Overtime," for regulation purposes, has no relation to the hours one customarily works, nor to the hours one customarily pays extra wages for. The permitted maximum hours are already substantially longer than the modern normal working day, but "overtime" in law covers only hours worked in excess of the regulation maximum, as quoted in the Table on page 56.

The regulations on overtime are stringent and a little complicated.

For women and for young persons between 16 and 18 in the work-room the only overtime allowed is 1 hour above the daily "maximum." The only variation of this rule is that women may work one hour later than young people, namely until 9 p.m. This does not mean that a woman may work longer hours than a young person ; if she works until 9 p.m. she may either start later or have longer intervals, that's all.

OVERTIME IN THE SHOP

In the shop no uniformity of hours for various workers is demanded, but the limits of overtime are narrower. For adult shop-assistants there are no limits as to hours, but there is an overall limit for overtime for the shop of six weeks in a year. In other respects the limits are for individual young persons. These are :

Under 16, no overtime ; 16 to 18, not exceeding 12 hours in any one week, nor 50 hours in any calendar year, or in more than in 25 weeks of that year.

These conditions are classified below—

In the shop :

Overtime may be worked—

not more than 6 weeks in any calendar year,
nor by any young person more than 12 hours in any week,
nor by any young person more than 50 hours in any calendar year.

In the factory :

Overtime may be worked—

not more than 6 hours in any week,
nor more than 100 hours in any calendar year,
nor more than 25 weeks in any calendar year.

MEDICAL EXAMINATION

Every young person under 18 employed in a workshop must be examined and certified as fit for the employment by the specified factory doctor during or before the first week of the employment, and particulars of each entered in the general register. A suitable room must be provided by the employer for that purpose.

EMPLOYMENT OF SCHOOL-CHILDREN

It is not often that photographers employ children in their businesses, but it may occur occasionally in rush seasons, or where for example a young relative or friend is asked to lend a hand. The law is strict and is not affected by the circumstance that the child receives no pay. The Children and Young Persons Act, 1933 provides that no child under 12 may be employed, but in other respects certain local authorities may make by-laws which (within the limits of the Act) may vary from time-to-time and from place-to-place. It is best, consequently, to make inquiries at the local County or Town Hall (not at the Employment Exchange).

A published example of the usual rules lays down that no child

may do photographic work on Sundays, and no child under 12 may work at all. On schooldays no child of school-age should work more than two hours, and then only between school-closing time and 7 p.m. On week-days when school is not open a child may work not more than 5 hours in any one day, nor more than 4 hours without a meal and a rest, and not in any case outside the hours of 6.30 a.m. and 8 p.m.

The "local authority" must in every case be informed within 24 hours of the commencement of the employment, and the school Medical Officer must certify that the child is suitable for the employment (and vice versa). There is no charge for his certificate.

WOMEN ON NIGHT WORK

There may be photographic projects otherwise than in a "factory" in which women are required to work at night. The law which applies to such cases is the Hours of Employment (Conventions) Act, 1936. Like the Factories Acts it does not apply to women "holding responsible positions of management not ordinarily engaged in manual work" but for other women (without distinction of age) it forbids their night employment "in any public or private industrial undertaking."

Its definition of "night" differs from that in rule *d* on page 57. It is "at least 11 consecutive hours including between 10 p.m. and 5 a.m." but it gives two relaxations. One is in a "case of *force majeure*, an unforeseen interruption not of a recurring character." This means that in an emergency where work would be spoiled it may reasonably be carried on to a safe stage. The other permitted exception is "where only members of the same family are employed." As read in Stone's Justices Manual (a legal guide much used by magistrates) this phrase seems to suggest that an employer who engages a mother and daughter or two sisters may require them to work at night, whereas if the female employees are unrelated he may not. What may happen when only one woman is employed is not stated.

CHAPTER 8

Master and Man

AN EMPLOYER MAY DESIRE AN apprentice or an assistant to agree not to open or to purchase a business in opposition to him, within a certain radius of place and time after leaving his service. Such an agreement should of course be in writing, but it is one "in restraint of trade" and no such restraint is allowed by law if it is not reasonably necessary for the protection of the goodwill of the employer. It is therefore most essential that any such agreement should be properly drawn up by a solicitor.

EMPLOYERS' SECRETS

An employee may also be required to sign an undertaking not to reveal a method or a process the secret of which the employer hopes to keep to himself. Even apart from such an undertaking it is unlawful for an employee to pass on to another person a secret process of the employer, though there is nothing which can prevent him using his knowledge of it for his own benefit after he has left the employment. Moreover it would be extremely difficult, in a photographic business, to prove what a former assistant has been doing.

An employee may not lawfully compile a list of his employer's customers while in his employ, and take it home for future use. Here again the fact would be difficult to prove, since the former assistant may say he has worked from memory. Damages might be even more difficult to gain than proof !

APPRENTICESHIP

In taking an apprentice a photographer should studiously avoid including in the agreement the traditional phrase, undertaking to teach the "whole art and practice" of photography. That is a promise no man could possibly fulfil, just as no lawyer could teach the whole of law. Apprenticeship agreements may prove unduly onerous on both sides unless carefully prepared. For example it is very important that power is given to terminate the apprenticeship in case of misconduct, because otherwise it may prove extremely difficult to get rid of a thoroughly unsatisfactory though non-criminal apprentice. There is also the question of what is to become of the premium paid if either the employer or the apprentice dies or by some other circumstance becomes unable to carry out his side of the contract. Unless there is a provision in the deed to the contrary the death of the employer terminates the apprenticeship. An apprentice who fails to carry out his duties faithfully or is otherwise disobedient may be punished by a magistrate.

"ENTICEMENT"

It is popularly supposed that if an employer has an assistant

whose services he values because of his skill or originality or otherwise, and another firm entices that assistant to leave him by offering inducements, he can sue the enticer for the damage he has suffered by the loss of those services. The answer is that in practice that is only the case in long-term employment under contract, which contract the enticer has induced the assistant to break. In cases of ordinary employment where the assistant merely gives due notice in the usual way there is no breach of contract and consequently there has been no enticement to break the contract.

EMPLOYERS AND PATENTS

Industrial firms frequently require members of their staffs to agree formally in writing that the benefit and ownership of all patents taken out and inventions made by the assistant shall belong to the firm. It is obvious that this is a wise precaution in respect of inventions which a craftsman may produce by reason of his knowledge of and experience in the manufactures which his employer makes. In point of fact it has been upheld that in law such inventions are the property of the employing firm.

The case, however, is somewhat different where a photographer is employed in a manufacturing firm to take photographs of the products and the like. For example a photographer may be employed in the publicity department of a wireless firm. He may know nothing about wireless, and his firm may know nothing about photography. It cannot reasonably be upheld that his photographic or other invention must be the property of the wireless firm. It is quite feasible that the idea for his invention was forming in his mind before starting that particular employment, and he may be dismissed shortly after taking out his patent.

On the other hand it may occur that a photographer when working in a business of some other kind than photography invents something which bears relation to both techniques. For example the photographer in a wireless firm may invent some improvement in the way photographs are transmitted by radio, or he may discover some method of utilising wireless for producing photographs. Again a photographer engaged in a glass-making firm may work out a method of etching photographs in glass, or of utilising a certain kind of glass for some optical photographic purpose, and in such cases the question may develop into unfairness or dispute.

It seems clear, since nowadays most big firms employ photographers, that any of the latter who are of an inventive disposition should not too readily sign agreements which give all and any of their own inventions to the employing firm. In such a case it is likely that the photographer will be told that the printed agreement is a standard form which all must sign. There is, however, nothing to prevent him striking out an offending word or words or adding any words which he desires, before he signs ; or he may ask that a special copy be typed with the amendment requisite to his special case. He should also require that a copy of the agreement be supplied to

him. The time has gone by when employers said "Sign, or else!"

EMPLOYEE'S SPECIMENS

It is both natural and customary, among those who seek to employ photographers (whether themselves photographers or not) to demand to see "specimens of work" done previously by applicants for the employment. Some employers, though, refuse permission to their employees to make such specimens. Surely employers cannot both eat their cake and have it? The custom of showing specimens has been extremely well-established since long before the present generation of photographers was born. Therefore a reasonable number of specimen prints of his best work (not merely faulty, rejected prints) should be available to each employee who takes the photographs. Those who refuse may be quite sure that the "refusee" will find a way.

It is occasionally known for a man seeking employment to borrow "specimens" from another photographer. For example an ex-service man who had lost all his possessions in the war showed his prospective employer the sort of work he formerly was used to doing, by means of photographs actually made by a friend in association with whom he formerly had done just such work. While his act was in the strict sense untruthful, he could easily, and in the result did uphold his claim to produce results of equal quality. No one was injured by his subterfuge. On the other hand when a man deliberately lends his own specimens to another to help him get a job, but the latter is totally unable to substantiate the quality, the lender of the photographs may find himself accused of participating in a fraud.

SHOP-WINDOW SPECIMENS

When an assistant sets up in business for himself, say as a portrait photographer, he is frequently hard put to find enough specimens to make any sort of show. Whether he is justified in exhibiting such specimens of his own work (done for previous employers) as were allowed him for seeking employment is a moot point. Certainly it has been often done through all the history of photography. On the other hand when a photographer goes to the length of exhibiting in his window a selection of photographs which he has borrowed, purchased or collected, that is an extremely dubious practice. It is still more so if his own work is of a lower quality than that exhibited. When the work shown in a small suburban shop comprises imported portraits of Hollywood's spotlit screen-stars, and enlarged prints such as those put out for dentrifice publicity, then the imposture becomes more than a little ridiculous.

CHAPTER 9

Sunday Trading

AT ONE TIME NEARLY ALL professional photographers kept shops, and a lot of those were kept open on Sundays. Nowadays no photographers or photographic dealers (excepting as fully detailed herein on pages 54 and 65) may open shop on Sundays. Comparatively few photographers have shops, and those seem likely to diminish. Fewer still of those who do keep shops appear to wish to open on a Sunday, and not many of the last-named, one thinks, will be among the readers of this book.

For all that, the book would be incomplete without this chapter, for it contains information which should be both interesting and useful to others than shop-keepers. For example, the permitted working hours of those who work in shops are not extended if they are required to work on Sundays, but the controlling regulations do increase their compulsory holidays and pay. People who run clubs, and those who travel on passenger-steamers are automatically given special privileges, and photographers situated at places of historic or other special interest may apply for similar benefits. So may, for example, an old or war-injured photographer who wants to sell on Sundays the picture-postcards which he makes.

A "Memorandum" or pamphlet on the Shops (Sunday Trading Restrictions) Act, 1936, is obtainable from the Stationery Office for 2d. (3d. by post).

AN ANCIENT ACT

Still in force, too, is the Lord's Day Observance Act of Charles II. It lays down that no tradesman, workman, artificer or labourer (unless a Jew) should either work or sell on the Lord's Day. By a modifying Act of Queen Victoria, however, no proceedings may be instituted except by written permission of the local police chief or of two magistrates. The maximum fine is 5s. The writer has no recollection of any prosecution of a photographer under this Act during the past twenty years or so, though in small towns shop-keepers were formerly prosecuted with comparative frequency.

WHAT IS A PLACE?

The 1936 Act, which compels the closing of retail shops on Sundays, applies not only to what one normally terms a "shop," but also to "any place where any retail trade or business is carried on." This includes places (such as a reception-room or kiosk) where orders are taken and where photographs are handed over and the money taken. On the other hand it is officially stated that "Doubt has arisen as to the precise extent of the application of the Act to street trading in view of the decision in the case of Eldorado Ice Cream Co.,

Ltd., v. Keating, (1938). I.K.B. 715. In this case it was held, in effect, that the provisions of the Act as to employment on Sunday did not apply to persons employed in selling ice-cream from box tricycles." In short, a tricycle is not a "place," and the spot it stops on to make a sale is not a "place" within the meaning of this Act. Though this may appear slightly amusing and irrelevant to photographers, its importance to certain classes of them is discussed later in this chapter.

EXEMPTIONS

It should be realized that *taking* photographs is not trading, but is a "process of manufacture" (see below). It is the taking of the order and the selling of the photographs which this Act prohibits on a Sunday. There are also specified exemptions, which may be of interest to individual readers. Among the kinds of trading specifically permitted on Sundays are :—

- (12) guide-books, postcards, photographs, reproductions, photographic plates and films, and souvenirs,
 - (i) at any gallery, museum, garden, park or ancient monument under the control of a public authority or university ; or
 - (ii) at any other gallery or museum or place of natural beauty or historic interest . . . if . . . the local authority certify that such sale is desirable in the interests of the public ; or
 - (iii) in any passenger vessel . . . (but this does not apply to "a sea-going ship")
- (13) photographs for passports :
- (21) the sale of goods to a club for the purposes of a club ;
- (22) the sale of the products of a handicraft, when the local authority are satisfied that a person engaged in handicraft at his home is dependent for his livelihood upon the Sunday sale of the articles he produces

Shopkeepers of the Jewish or other religions regularly observing Saturday as the holy day may apply for permission to open their shops on Sundays. The application-form (Form III), must be accompanied by a declaration on Form IV (a) (1d. each plus postage and purchase-tax, see page 90). Applicants so permitted must close their shops entirely on Saturdays. Any shopkeepers in certain districts in London where it has been customary to keep shops open on Sundays since before 1936 may apply for similar permission, but will be required to close at 2 p.m. on the Sunday, and to close entirely on another day of the week.

PASSPORT PHOTOGRAPHS

The exemption of substantial importance to photographers is No. 13. It permits the taking of orders for and the selling of finished photographs, and keeping the shop open for these purposes, provided they are "passport photographs." The actual taking of the portraits does not come under the Sunday Trading Restrictions (see below).

There seems to be no onus on the photographer who keeps his passport-portrait shop open on Sundays to ensure that the prints are actually applied to passports, so long as they comply with the specified requirements, namely that the order is for three prints, full-face, without hat, unretouched, and size $2\frac{1}{2}$ in. by 2 in. and that they are printed on thin (normal-thickness) paper, unmounted. Nor is there any restriction on the size or type of other prints which may be subsequently made from the same negative provided that such order is taken not on Sunday but at a time when a shop may normally be open.

PHOTOGRAPHING IS NOT TRADING

A Home Secretary has officially expressed the opinion that the taking of a photograph, as distinct from its sale, is "a process of manufacture, subject to the Factory Acts" and is consequently "outside the scope of the Sunday Trading Act." The official reference is a Home Office letter Ref. 800,359/6, of May 4th, 1937. In consequence of the above it is now regarded as settled law that the studio is a "workshop," and that provided an appointment was previously made a customer may be admitted to the studio through the shop at any time on a Sunday, for the photographs to be taken. It is one of the curiosities of law that such a previous appointment may not be made in the shop itself either on Sunday or at any other time when a shop may not legally be open, but an appointment made (or an order taken) by letter, telephone, while playing golf or darts, or at one's home is always quite in order. It is only trading *at the shop* which is restricted.

The restrictions on Sunday Trading dealt with here do not apply at all to Scotland, although similar ones applicable there are the Sabbath Observance Acts, 1579 and 1661, and the Factory and Workshop Act, 1901. The author has not investigated laws which apply solely to Scotland.

ITINERANT CAMERAMEN

As shown above, it has been decided that an ice-cream vendor's tricycle is not the kind of "place" where trading may not be done on Sundays, and neither is the bit of ground on which from time to time it rests. Therefore it may be pertinent to point out that some professional photographers carry their equipment, even their whole businesses, on cycles, cars and caravans; even on their backs. It would appear that the existence of a "shop," where no Sunday trading may be done, depends upon its being some sort of structure or erection in which a business is carried on. Those photographers who take photographs at peoples' homes may do that on Sundays, for clearly they are not trading in a "shop."

WOMEN AND YOUNG ARTISTS

A photographer who takes advantage of the ruling which has been gained for him that previously-booked customers may be admitted

through a shop and be photographed on Sundays may nevertheless find himself called to account should he employ a woman operator, or a male operator under 18. This is because the ruling which regards the taking of the photographs as a "process of manufacture" regards the studio as a "factory," where Sunday work by women and young persons is prohibited by law. The proprietor may do the work himself, of course, even if a woman or young person, because he or she is not employed to do it.

CHILD MODELS

Many children are photographed for advertising purposes, and are paid for posing. Doubtless some of them are sometimes photographed on Sundays. To those fond of legal puzzles child models certainly present some problems. In the first place in strict law no child under 12 may be "employed" at all, and no-one under 18 may be employed in a "factory" on any Saturday afternoon or Sunday. That any of the questions which could arise in these connections will be fought out in the Courts seems to the writer unlikely in the extreme.

HOLIDAY RESORTS

A brief note concerning opening of shops on Sundays and on early-closing days in holiday resorts is made on page 54. Although the two conditions are governed by entirely different Acts, most shopkeepers who desire the one desire also the other, so it is convenient to discuss them together. Having obtained the necessary orders from the local town hall the remaining obligations concern employment of the staff, on either their half-holidays or on Sundays, or on both. As with most other regulations, it is virtually impossible to state them briefly and simply without leaving many possible questions unanswered, while if they are stated in their original complexity no ordinary man can find a fact from them without close and lengthy study (if at all). The following will be found a workable solution suited to most cases. They apply to shop-staff only, not to those who work in the work-rooms—

- (a) Juvenile shop-assistants (under 18) must be given their weekly half-holidays. The writer cannot find any provision for relaxation of the regulations in respect of juveniles.
- (b) Adult shop-assistants who work on their half-holidays must have paid holidays in lieu. So involved are the regulations that it is infinitely simpler to satisfy them by letting adults work on their half-holidays throughout the season and by giving them two weeks full-paid holiday earlier or later in the year.
- (c) Those assistants, adult or juvenile, who are employed more than four hours on a Sunday must be given, in lieu, a paid whole-holiday on a weekday, which must be either in the same week or the previous week.
- (d) No assistant may be employed for over four hours on more than three Sundays in the same month.
- (e) An adult or juvenile assistant employed for four hours or less on a

Sunday must be given a paid half-holiday on a weekday in the same or the previous week.

(f) Such a half-holiday must be additional to the normal half-holiday. It may be a morning until 1.30 p.m. or an afternoon from 1.30 p.m. A full day may be substituted for two separate half-holidays at the employer's discretion. Where both are worked, then in addition to the two weeks paid holiday in lieu of the half-holidays, full pay must be given in addition for any days or half-days which should have been allowed in lieu of Sunday employment.

(g) These provisions apply to all shop-assistants, that is to clerical workers, unpaid learners, and to members of the trader's family, as well as to those serving customers.

(h) The compulsory extra holidays as in c to g in lieu of Sunday work do not apply to those employed in a shop (for example in cleaning, stocktaking, etc.) which is entirely closed to customers on Sundays.

CHAPTER 10

Business Names

MANY PHOTOGRAPHERS TRADE UNDER a "fancy name," such as "Adelphi Studio," "Natty Snaps," or "Foto-Publicity." Others, again, use their own names with some addition or subtraction, or both, such as "Brown's Galleries." In other cases a man has bought a business, and for the sake of the goodwill retains the former owner's name ; or perhaps he has a partner whose name is not quite euphonious and so is left out of the "business name." There are numerous other circumstances in which that business name is not precisely that of the owner or owners.

In all such cases the business name must be "registered," together with the true names of all the partners. Otherwise the owner or owners of the business may be subject to severe penalties. The Registration of Business Names Act, 1916 was introduced during the 1914-18 war, to cope with the position in which many aliens opened studios and other businesses under characteristically British names. The requirements are not confined to shops, and it is not sufficient that the owner's true name is printed on the business stationery or painted on the signboard, though the former is one of the essential requirements.

On the other hand it is not an infringement of the regulations if the name used is the true surname only, or the surname with the correct first name or initials. But every other variation, if not properly "registered," is a breach of them, and it is equally a fault to add the name of a non-existent partner or to retain that of a deceased one without registration, as it is to exclude the name of a living partner. It should be clear that it is permissible for anyone to use any novel business name he pleases, so long as it is registered, and so long as the adopted name is not already that of a competitor (see below).

HOW TO REGISTER

A form should be obtained from any of the addresses listed below and it should be returned completed together with 5s. The Certificate of Registration, when received, must be "exhibited" in the shop or office where all can see it. A further requirement is that business letters, catalogues and show-cards should bear, besides the "business name," the true names of each and every partner ; while if any of them has ever changed his name or nationality then his original name and/or nationality must be stated, and if any is an alien then also his present nationality. These last requirements do not extend to the business name as used on photographic prints and mounts, or invoices, on all of which the business name alone suffices.

A limited company does not normally need to register its name under this Act, unless it uses a business name which differs from that of the company. The Act is administered by the Board of Trade, and

the offices of the Registrars are as follows :

England and Wales : Bush House, S.W. Wing, Strand, London,
W.C.2.

Scotland : Exchequer Chambers, Parliament Square, Edinburgh.
N. Ireland : 15, Donegal Square West, Belfast.

PENALTIES

This oft-neglected and comparatively little-known law has two extremely sharp stings in its tail. One is that a fine up to £5 (plus usual costs) may be imposed on the proprietor, or upon each partner of a defaulting firm, for each day of the neglect. Even if the business name has been registered, a fine of £20 may be inflicted for failure to exhibit the certificate. What could be an even sharper sting is that the rights of a defaulter under any contract are not enforceable by law. He may, however, apply to be relieved from this disability, if he can satisfy the Court that it was due to inadvertence or some other sufficient cause, and this is usually granted.

EXISTING BUSINESS NAMES

A business name (real or assumed) already used may not be adopted by someone else, if the result will be that people are deceived into thinking that they are dealing with the older-established firm. This practice is known as "passing off" and the number of injunctions which have been sought and obtained against it are legion.

CHAPTER 11

Accounts : Taxes : Purchase Tax

IT IS IN THE TECHNICS of conducting a small business rather than in obtaining orders that the writer feels he may be the more competent to offer helpful hints. Photographers of either technical or artistic bent are notoriously antipathetic towards accounting. It is, however, essential to keep records and accounts both for self-protection and to satisfy the tax inspector.

The author's concise methods have been adopted with advantage by many. When he first started "on his own" in commercial work he spent two days per month upon the work, but with practice and by studied simplification a greater number of accounts was subsequently dealt with in one half-day per month. The method was as follows :

THE JOB CARD

Each order taken is detailed (with the maximum of abbreviation) on an index card (5 in by 3 in) with the client's surname in block letters at top left. This card provides in proper sequence all necessary instructions in abbreviated photographic code to all successive members of the staff who are to deal with it. The assistant who finishes the job drops the card into a "Finished Order" box upon the office desk. On a fixed day in the month the author would write up his invoices from the details on all cards in that box.

THE INVOICE

Invoices would be written on the typewriter, and a carbon copy made of each at the same time. Merely by clipping the month's carbon copies together in alphabetical order the work of compiling the "day-book" or "journal" is completed, ready for entering in the ledger, for the annual accounting, or for reference in case of re-orders or the like.

The purpose of the invoice, obviously, is to show the client what has been done and what he is expected to pay for it. One should avoid on the invoice the use of the word "negative" (see Chapter 5). Few firms nowadays regard the invoice as anything more than information, and do not "pay on invoice."

THE STATEMENT

It is the "statement" which sets the client's counting-house aboving. This is a second form of "bill" or "account" which merely states the totals of all invoices for the month. Even if there has been only one invoice a monthly statement should be sent. This should show also any balance due from any previous months, the total being clearly stated at the foot. The statement provides the

customer's accountant with a signal that there may be a corresponding entry in his ledger showing that the amount is due and payment should be made, or, if there is no such entry, that there is probably an unpassed invoice floating somewhere around the firm.

PAYMENT METHODS

Some firms send out cheques on the fifteenth of each month, some on the thirtieth, others at irregular times. A statement which comes only just before the regular pay-day will usually be ignored until the routine of checking with the invoices and ledger starts again. So it will miss by at least a month the batch of cheques laid out for signing. Obviously a regular statement timed to reach each client on the first of every month cannot miss the next appointed day excepting by deliberate neglect of a client's staff.

Another variation which one may encounter is that payment is not necessarily made right up to date. Some firms do actually pay on a regular appointed day, and include all amounts shown on statements received up to the first of that particular month. (Lucky is the commercial photographer who has such customers). Some firms pay only in the second month after the amount is due, others pay in the third or even the fourth month after the work was done and the account was rendered.

REFERENCES

It is usual among business firms who mutually require and give credit to expect a stranger to submit suitable references if asked. A photographer applying to any of the wholesale houses for credit who is unknown to them will certainly find references asked of him. Usually he need not hesitate to ask the same of anyone who wants him to do work on credit. In the writer's experience if there is the slightest hesitation or sign of unwillingness to give such business references it will prove better not to do the business.

DISCOUNTS, REBATES, ETC.

Some firms make a practice of deducting the odd shillings. Others deduct a percentage "for cash," however long the payment has been overdue. In such a case it must be a matter of individual policy whether one ignores the practice and remembers to "put on a bit" next time, or whether one returns the cheque for its correction. It may usefully be pointed out that in a large organization the particular executive who likes and wants one's work has rarely a direct link with the accountant.

In pre-war times it was the custom in certain types of firm for the clerk responsible for issuing order-forms to photographers, block-makers and the like, to expect a rake-off from the monthly bill. The sum expected was 10 per cent. of the total, and this would naturally first be added to the account. This evil practice was most prevalent in advertising agencies where the cost-plus system was in force.

DEBT COLLECTION

The author is fortunate in having had a minimum of bad debts. In fifteen pre-war years in his London commercial practice these totalled under 0.01 per cent of turnover. His methods, therefore, may prove useful to others.

If a "small" or doubtful client did not pay by the fifteenth of the third month, or in the case of a substantial client the fourth month, a letter would be immediately sent pointing out that the writer, as a technical man, was mainly interested in improving his personal service to his clients, but that accountancy and correspondence about it must necessarily absorb much of that effort. Might he, therefore, be informed if there was any reason why the account had not been paid?

Answers to that letter may be classified as follows—

- (1) Immediate payment.
- (2) Immediate payment with apology.
- (3) Complaint of quality or of overcharge.
- (4) Silence.

Nos. 1 and 2 would be followed up by a brief letter of polite thanks to restore and establish friendly relations. No. 3 would be countered by a stronger letter, which would point out that the proper time for complaint was when the photographs and invoice were delivered, not long after the prints had been used and published. It would be further pointed out that the writer had always offered, and still did offer, the following guarantee: namely that if the client could get equal work at a lower price, or better work at any price, then he would make the client a present of his work, and pay the other man's bill into the bargain.

The same challenge would be issued if a client pointed out that his prices were above the average. It remains a fact that the challenge was never taken up! If that procedure did not succeed with a debtor No. 3, he would be treated as a No. 4. The method of dealing with class 4 was different: At precisely two weeks after dispatch of the letter described above, without further ado a summons would be issued at the County Court. Anyone who did not respond to this shock treatment was obviously a hardened debtor, after whom it is quite useless to throw further time or money.

It may be added that the conventional tinted reminder slips for attaching to overdue accounts are completely useless for their ostensible purpose. Sluggish payers either grin or growl at them, but are not moved thereby. On the other hand a surprisingly effective device is a small rubber stamp of an outstretched hand on which the single word "PLEASE" appears. It is obtainable from large stationers, and its imprint immediately underneath the total due often seems to strike the desired note.

INCOME TAX ALLOWANCES

As previously stated, it is essential to keep accounts and to prepare correct returns of earnings from them for the tax inspector. In doing so there are certain items which the photographer may charge as

expenses in his business, and others which he may not. One item which many tend to ignore as insignificant is that of "petty cash." Yet the odd bus-fares, postage-stamps, the tyre-repair, the café meal, the luggage-porter's or the waitress's tip, the outside phone-call, and the cloakroom ticket when one leaves the kit at the railway station; in many businesses all such little items tot up to a tidy sum. The trouble in omitting them is not only that they are in fact legitimate expenses, but by not including them a corresponding amount is automatically shown as profit. Consequently income tax is assessed on it and one pays extra for the privilege of not jotting the items down.

Among other expenses which are allowable are : the rental value of such rooms (and a proportion of the outgoings on them) as one uses at one's home for business purposes. Whether they are partly or wholly used in this way governs the amount allowed. Technical books and periodicals, car-costs, entertainment of clients and their staff when necessary or expedient ; those are permissible, but subscriptions to professional or trade associations are not regarded as legitimate business outlay ! Of course any legal costs should be included as expenses, and so should the charges of the qualified accountant one commissions to prepare a yearly balance-sheet from the accounts. One may perhaps be pardoned for interjecting here the ever-wondering regret that the last thing one can persuade a professional accountant to tell one or to show upon the balance-sheet is what one's own annual income actually is !

EQUIPMENT

The price of new or second-hand apparatus may be charged as an expense only if it is bought to replace obsolete equipment, which should be sold (if saleable) and the sum obtained shown as contra in the accounts. One may prefer to charge a regular annual percentage for "depreciation" against "apparatus and utensils-in-trade." In that case the cost of new may not be charged at all. It is then a capital outlay on which relief from tax is not given.

BOOK ROYALTY

Since the writer wrote his first book on photography (about 1922, this is his tenth) book-writing has become more general among photographers. It may therefore be useful to point out that if an amateur photographer writes a single book upon photography he is unlikely to find the royalty on it regarded as a part of his taxable income, any more than would be his winnings at the dogs. But when a professional photographer writes a book about amateur photography it may be thought a little too close to his business to escape. Of course he may charge against his royalties any costs that have been incurred. It might be more accurate to say that he should have charged them when they occurred, because in writing books there is a time-lag, sometimes of years, between the outlay and the cash return.

There is, however, another aspect of the case which is often overlooked, even by officials of the Inland Revenue. Its clerical staff

seize automatically on anything described as "royalty" and tax it at the highest applicable rate. In the author's experience it needs regularly pointing out to them that book-royalty is in the earned-income category (one might say very hard-earned) and it remains in that category however long may have elapsed between the earning and the getting. If due allowance has not been previously made, it may be possible to recover tax incorrectly paid in previous years in this connection. By acting on these hints some literary readers of this book may be enabled to get back the price they paid for it, and still be well in pocket.

PURCHASE TAX

An amateur photographer's main concern with purchase tax is the high price it sets upon the apparatus and materials for his hobby. He cannot control it and his only satisfaction is that those who have to earn their living by photography have to pay likewise. On the other hand those amateur photographers who travel overseas and who either take their cameras with them or buy a camera when abroad may come up against the impost most unpleasantly. It is on returning to this country that the customs man may demand both duty and purchase tax on apparatus which passengers bring in with them. Enquiry of the Custom House authorities confirms that this is quite in order, even if the apparatus which has been bought abroad is bona fide second-hand.

RECORD OF PURCHASE

It often happens that a traveller who takes his camera abroad with him is challenged on return and is faced with a demand for both duty and purchase tax on it. This is especially the case if the apparatus is of foreign make, and if the passenger has no evidence to prove that he had it when he left this country. The customs may be satisfied if he signs a declaration to that effect, but the surest way to avoid this trouble is to carry a receipt showing when and where the particular outfit was bought. This should be identifiable with the apparatus, as by recording the serial numbers of the body and the lens. Such a receipt can be folded neatly and kept in the bottom of the camera-case, ready for the emergency which is almost certain to arise.

POSTCARDS, CALENDARS, ETC.

A photographer newly setting up in business may be alarmed to learn that picture-post-cards, calendars, and fine-art photographs are liable to purchase tax. There are also many small but old-established firms of photographers in holiday resorts, beauty-spots, and places of historical interest who invest considerable time and money in making series of negatives from which they print such postcards which they sell to visitors or wholesale to the local shops. To all such people the clerical work involved would create a problem, and since purchase tax is imposed upon production-costs the calculation of the latter might be to them a difficult and complex problem, to say nothing of the added responsibility. They may also fear that the

extra cost might induce considerable "customer-resistance," and so reduce the demand for their productions.

Their anxiety may be allayed. The regulations are that firms who make, or expect to make, an annual turnover of over £500 from the sale of postcards and the like must "register" for purchase tax, and that those who register must impose the tax, subsequently remitting it in the appointed way. Registered firms do not pay purchase tax on the relative sensitive material but must pay it on their other supplies. The authorities do not specifically state or admit (as is the case) that only those who do more than five-hundred pounds worth of such business annually need bother with the matter. They leave that to be tacitly implied, and it is such vaguenesses which arouse doubt and anxiety in the minds of "small" producers. Such people understand a simple, clear-cut statement. They mistrust and are not trained in unravelling involved "officialese," nor in drawing the desired implications from scattered sentences.

The persons who are responsible in this connection are "every manufacturer and wholesaler whose gross takings . . . exceed or are likely to exceed £500 a year." A "manufacturer" is defined as any person carrying on a business of making goods or applying any process in the course of making goods . . . Likewise any person who has his goods processed or made up by someone else is deemed to be the manufacturer." Consequently a photographer who has his post-cards machine-printed in bulk by one of the mass-producing firms is regarded as the manufacturer of them for Purchase tax purposes.

The Commissioners "have powers in certain circumstances to refrain from registering" a man who has applied for registration. That fact does not excuse anyone liable from registering, but no indication is given of the sort of circumstances in which exemption may be given. Presumably one asks, and hopes.

Photographers who produce such articles, and also picture-frames, "in quantity for general sale," and who are doubtful about their position, should communicate with the nearest officer of Customs and Excise (see page 91). They should also ask him for the free pamphlets "Notices Nos. 77, 78, and 78L," containing details of the tax and of procedure concerned with it. Moreover, anyone who receives a reply which is not a clear and explicit answer to his question is advised to write again and demand one. The same applies to any question addressed to any civil servant. Since anyone who, in ignorance, acts contrary to law is liable to punishment, it seems only fair that information should be available to him, and it is time that the old-established custom known as "fobbing-off," or "passing the buck," should be resisted. At any rate it will be found that a firmly worded request that the reply be couched in terms "that an ordinary Englishman can understand" will prove effective. Governmental offices which send out clear-cut, informative, easily-understandable replies to questions as their normal practice appear to grow in numbers, but they are still in the minority.

CHAPTER 12

Insurance: Contracts: and Allied Points

THE APPARATUS OF AN AMATEUR photographer, nowadays, like that of the professional, may be valued at a substantial sum. Like other personal property it is liable to damage or destruction by fire, and to damage or loss by burglary (burglars often do wanton damage). The owner may include his apparatus among those of his personal possessions covered by his normal domestic comprehensive insurance policy, and he is entitled to do so.

It should be remembered in this connection that "theft" (or to use the legal term, "Larceny") from one's house or premises may be of three kinds—

"Burglary" : This can only be committed in a "dwelling-house" between the hours of 9 p.m. and 6 a.m. There must be a "breaking" and an "entering," and there must be intent to commit a felony (not only larceny) in the house.

"House-breaking" : This need not take place in a dwelling-house and it need not be between 9 p.m. and 6 a.m. : otherwise the conditions are generally the same as those in burglary.

"Larceny from a dwelling-house" : Here the conditions of burglary exist except that it need not take place between 9 p.m. and 6 a.m. and the elements of "breaking and entering" are not necessary.

An insurance policy should cover burglary if the premises can be described as a "dwelling-house," but otherwise it should cover "house-breaking." (See also page 87.)

ACCIDENTAL DAMAGE

Certain insurance companies offer photographers special "all-in" policies which cover some of the more unusual emergencies, such as accidental loss and accidental damage to cameras and accessories. Such a policy is obviously attractive to photographers who travel. An instance reported while this is being written is that of a naturalist-photographer who dropped and smashed his telephoto lens, valued at about £60, just prior to going on a bird-hunting expedition. On notifying the insurance company the latter immediately searched for a supplying firm who had in stock a duplicate, and ordered it to be supplied to the photographer to try out on his trip and to keep if it proved satisfactory. It did so and was paid for by the company. Professional cameras are usually in more constant use than are those of amateurs, and the premium is their case is naturally higher.

There are also many scientific and experimental workers who work at their homes with valuable apparatus. Some of the latter may have little original intrinsic value, but may have been adapted in stages by considerable effort for special purposes and so would be difficult and certainly costly to replace. It is doubtful whether such

workers would be entitled to regard their equipment as covered by a domestic policy, even if the sum provided for were sufficient to include its value. There is also to be considered the value of negatives and prints in such cases, as well as of the records of researches.

PROFESSIONALS' NEGATIVES

It is probable that many professional photographers take out an ordinary fire policy, and another against burglary and housebreaking, to cover the estimated value of their equipment, and leave it at that. Many do not very closely examine or consider the actual risks against which they are covered by the policies. In the case of a portrait studio that may be sufficient. Yet many such a studio has a large number of negatives, either of celebrated people with possible press-revenue, or of more ordinary people with a possible re-order revenue. In either case the policy should contain a clause specifying the total estimated value of the negatives, and usually such a policy states a maximum value for any one negative. It should also not be forgotten that a fire is likely to destroy negatives in hand, the orders for which can consequently not be completed, and that in such a case the value of these few might be in fact greater than that of the stored stock.

A maximum value of £3 3s. for any one negative is normal, and is accepted as such by most important insurance companies. On the other hand in case of a claim for loss the photographer might be called upon to provide evidence that negatives destroyed were actually of the value stated. To do so might suggest (since a photographer has so many negatives) that the total value of negatives on the premises was much higher than that covered by the relative clause, and in that case, without a carefully reasoned argument the photographer might recover only a proportion of his loss. This is because it is usually a condition that one insures for the full value of one's property, and if that has not been done only a proportion of one's estimated loss is paid.

There seems to be no reason why a research worker, an explorer or nature photographer or the like should not insure his negatives also against such loss. The point arises, though, that their monetary value is not easy to assess, and still less easy to prove in case of trouble arising. Assumed or sentimental value is not normally insurable, and it might be necessary to find a company willing to discuss the question, as described under "manuscript," page 84.

EQUIPMENT AWAY FROM PREMISES

Insurance policies normally specify the address at which the covered goods are kept. It is often the character of those premises, or even of other premises in the vicinity, which controls the rate of premium to be paid. For example when the writer moved his business from Chancery Lane to Fetter Lane, namely to the next parallel street between the two main thoroughfares of Holborn and Fleet Street, his fire-insurance company immediately demanded a higher rate, on the ground that a large store close by came under the category of a "Manchester warehouse," which sold cotton goods and which

therefore was more liable to the risk of serious fire than were the purely office buildings around his workrooms at his previous address.

While the same equipment required a higher premium at the new address, it was also made clear that when any of that equipment was not at the place specified in the policy it ceased to be covered. Now, like that of most commercial photographers, some of that equipment was often taken elsewhere, for example to clients' premises, and to clients' clients' premises, as well as to the premises of railway stations and hotels, where he might leave it overnight. Some of it was sometimes at his home, or in one of a hundred other places for one of a hundred reasons. Like many other professional photographers, he even took a camera on holiday. Therefore he made an estimate of the value of the most elaborate kit he was likely to select for any one occasion, and had a clause inserted in his fire and burglary policies to cover that amount. It may be noted that the extra premium was charged as though that kit were an entirely separate equipment, despite that when it was at headquarters it was part of the whole stock already covered by the normal policies.

IN TRANSIT

If a photographer wishes to insure against the extra risks involved in moving apparatus between various addresses, even though it may be merely between his office and his home, it is desirable to see that the words "in transit" occur in the policies. This is because if his car should catch fire or be stolen, and some of his apparatus be in it, and if his policy did not contain those words he would be the loser. The insurance company may require to know precisely what "transit" is intended to be covered, and to define it in the policy.

When a photographer moves his business from one address to another, it is advisable not only to inform his insurance company well in advance of the approximate date of removal, but also to ask it to cover his effects in transit. This will require a special "transit policy," and the premium usually charged suggests that the risk of a removal-van being destroyed by fire or ransacked is not so remote as might be thought. It is a curious feature of such insurance business to-day that in each case of his more recent removals the writer's transit policy has reached him long after the removal was effected. With any reputable company it is enough that one informs it and receives acknowledgment.

APPARATUS AS LUGGAGE

Photographers who take apparatus with them by rail can cover it against certain risks by means of an insurance ticket upon passengers' luggage purchaseable at the booking-office. At one time when photographers' luggage tended to be rather more bulky than now, it was the practice of some railway officials to demand payment for its transit although accompanying its owner, on the ground that it was not personal luggage. Eventually strong protest was made against this practice and a photographer had the wrongful charge officially

remitted, with the ruling that a photographer's apparatus might be carried with him as his luggage without charge, provided that the total did not exceed the permitted free weight.

Now that the railways have been nationalised, there is the possibility that this point may be overlooked, and that some official may once more demand payment for the carriage of apparatus which a photographer takes with him. Therefore it is worth while publishing once more that such a charge would be invalid and should not be paid. Instead, reference should be made to a letter of July 5th, 1922, signed by initials W.B. for R. H. Nicholls, from the office of the Superintendent of the Line at Paddington Station, London. That letter was written on behalf of most of the railway companies, and accompanied the refund of an illegally-demanded payment.

THE TREACHEROUS TRIPOD

Many photographers, on entering or leaving a railway carriage or other public vehicle, carry their tripods in a manner similar to that of some ladies with umbrellas, to the danger and terror of other passengers. Just as this book is closing for the press the writer learns of a photographer's tripod falling from a railway luggage-rack and hitting a passenger who was treated at a hospital for the resulting injury in respect of which he has claimed compensation, alleging negligence. The photographer attributed it to accident, caused by undue jerking of the train, but considers himself fortunate that the victim accepted his offer of £15 to include costs.

FIRE ON PREMISES

If the premises are the photographer's own, naturally he will have a fire policy on them; while if he rents them on a lease, its terms may require him to maintain a policy. Such a policy, though, would concern only the value of the premises themselves, while the policy upon his equipment would concern only the property specified in the document. It should be borne in mind that fixtures and fittings of various kinds often comprise a substantial value, and although such fixtures might not be interesting to a burglar they should be included in a fire policy.

It is also often forgotten that most premises contain equipment that is not the property of the occupier, but for which he is responsible. This comprises such items as gas- and electricity-meters, and telephones. A further important circumstance that is often overlooked is that in the event of a serious fire the business, and the income from it, will immediately cease, but the amount of the indemnity, when eventually settled, will only cover replacement of the items actually insured. The loss of business may prove serious, and the rent of suitable alternative premises during re-instatement may be out-of-proportion. This is especially the case for a photographer because he may find that business premises suitably installed with convenient water and ample electricity are rare. A policy to cover such eventualities can be negotiated with most companies.

INDUSTRIAL INSURANCE

The newly introduced National Insurance schemes do not extend the benefits for industrial disease or injury to "self-employed" persons. They do, however, entirely supersede the Workmen's Compensation Act, so that no useful purpose is served by the continuance of a policy under the latter. On the other hand it is a very great mistake to suppose that the new scheme relieves employers of all and any of their responsibilities towards their staffs in respect of accidents and injuries which the latter may sustain. The employer is, for example, not exempt from responsibility if he or his wife asks an employee, after he has finished his ordinary work, to do some personal service in the course of which he slips or something falls on him and causes injury. Nor, in such a case, is the employee covered by the scheme against his injury. And even in the case of an injury which arises in the course of normal employment, if it is due to some negligence on the part of the employer the new law does not exempt him from a claim under common law which the injured person may bring against him.

NEGLIGENCE AND ACCIDENTS

For example an employer may be "negligent" in the matter of frayed electric flexes, from which an assistant suffers shock, or he may have negligently failed to clear a drain or waste-pipe, whereby water running over the footway or elsewhere has frozen and causes the employee to break his leg. Insurance against such liabilities is still called for, and most if not all the tariff companies have Traders' Comprehensive policies covering such common-law risks to staff or others.

INDUSTRIAL DISEASE

The employee's "benefit" is greater when he suffers from an industrial disease than when he has other kinds of sickness. Among the officially "prescribed" diseases of interest to photographers are mercury poisoning, chrome ulceration, dermatitis, and writer's cramp.

In the case of mercury poisoning, it is specified that to qualify for benefit it should arise from: "The use or handling of . . . mercury or a compound of mercury, or a substance containing mercury." Mercuric compounds are not extensively used in photographic work. Intensification of negatives is virtually their only application, and the writer has never encountered or heard of a case of mercury poisoning. That is not to say it does not or cannot occur among photographers.

Chrome salts, such as potassium bichromate, are much less used in amateur or professional photography than they were forty or fifty years ago, and it seems unlikely that they are used sufficiently to cause ulceration, excepting perhaps by those commercially engaged in "carbon-printing," photogravure, and the like.

Dermatitis is the industrial disease most common among photographers, and the form it usually takes is metol-poisoning. "M.Q.," that is metol-quinol, is an almost universal developer to-day among

photographers for prints, and very many use it also for their negatives (see page 94). Unfortunately the Ministry's publications are vague upon dermatitis, and suggest that it cannot be presumed that a sufferer contracted it from his occupation, "because it can be caused in various ways and it is not easy to pick out cases of dermatitis which are of industrial origin. According to a medical officer of H.M. Factory Department, "dermatitis can be caused by almost any substance including clean water." That form of pontifical *ipse dixit*, however, is no help to anyone. In the author's opinion, if the sufferer did not have the irritation and eruption before using developer containing metol (even though he used it for years before the trouble appeared) and if the symptoms ease or cease a few days after discontinuing its use, it should be evidence enough that the developer is the cause of the disease, and therefore that the latter is "of industrial origin." On the other hand it does sometimes occur that a long time elapses before the symptoms cease, and it has been known for an affected person to be re-attacked merely by re-entering a room where metol is used.

TWO OFFICIAL REFERENCES

In this connection it may be useful to any employee unfortunate enough to contract metol-poisoning to have at hand the following references by which he may, in case of difficulty, be enabled to get his case confirmed as a "Prescribed Industrial Disease." In the (free) official leaflet, N.I.2, disease No. 24 (b) is "Inflammation or ulceration of the skin . . . produced by dust, liquid or vapour," in "Any occupation involving dust, liquid or vapour." A letter from the Ministry to the writer on the subject (of June 10th, 1948, ref. I,698) is a little more specific and helpful. It says: "If a man contracts one of the prescribed diseases who has been employed in one of the relative processes, it will be automatically assumed, in the absence of proof to the contrary, that the disease is due to the nature of his employment. Inflammation or ulceration of the skin (dermatitis) produced by dust, liquid or vapour is prescribed in relation to any process involving exposure to dust, liquid or vapour" (see also Chapter 14).

Phenylene-diamine is an ingredient of certain fine-grain negative developers which is widely reputed to set up a form of dermatitis similar to metol-poisoning in some individuals; but the manner of use associated with it should make it easy to avoid all contact with the fingers. It has also proved impossible to obtain confirmation of that rumour concerning this product, or even of a single case.

Since writers' cramp, caused by hand-writing for long periods, makes its appearance officially as a "prescribed industrial disease" for which there is increased "sick-benefit," the writer ventures to wonder how long it will be before those who wield retouching-pencils and spotting-brushes for substantial periods in photographic businesses will stake a claim for "disability benefit," when they happen to suffer strain or discomfort.

A self-employed author who suffers brain-fag has to put up with it. On the other hand an employee who, as the result of industrial

accident or disease, suffers "some loss of mental faculty," or "impairment of the power to enjoy a normal life" may obtain substantial monetary compensation over and above his other benefits, and even after his return to normal employment. Those interested should obtain the free leaflets listed in the Bibliography, page 148.

EVADED INSURANCE

When health and unemployment and workmen's compensation insurances were separate there were occasional evasions by employers. For example a photographic press-agency "employed" free-lance photographers. These could work for no other master and were treated in every way like other staff, except that they were remunerated mainly by commission on the business that resulted from their work. They were regarded by the firm as "self-employed" (although that term was not then used officially) and no cards were stamped in respect of them. Such cases of evasion were seldom discovered by the authorities unless a man fell ill or suffered accident or became unemployed, and absence of his record brought the facts to notice, but in such a case within the writer's knowledge the employer was made to pay the whole of all the insurance contributions, his and the employee's, from the beginning of the employment. Now that every self-employed person comes within the scheme, but has no claim in respect of accidents, diseases or the like, and so pays a higher rate for fewer benefits, employees are less likely to agree to such evasions. In any event the consequences of evasion may be more serious for an employer should an accident occur.

GOODS IN TRUST

Most commercial photographers, and some others, from time to time have goods entrusted to them for photographing or for other business purposes. Such a one is usually responsible, within limits, for their safe-keeping, and may think that it is wise to cover such goods-in-trust in his fire and burglary policies. Clients frequently leave at the photographers overnight some articles of value. For example a lady of fashion may leave her furs, or an inventor may leave his model, a manufacturer a whole catalogue of objects, and if the value is substantial the photographer may feel anxiety. His best plan is such a case is to telephone instructions to his insurance company or broker, and to follow that immediately with a confirmatory letter. He is, however, not bound to insure and may prefer to ask the client whether the articles are covered by insurance. In any case, if such articles are not collected by the client the photographer must look after them, even if the former does not pay his bill. It might be found difficult to insure such articles against pilfering by members of his staff or by others who may gain admission, and he must take proper precautions as though the client's property were his own.

" LIEN "

Even though a photographer has expended time and money in

taking photographs, he cannot sue for payment until the work has been sent home though he cannot be compelled to deliver it. Nor can he retain in his possession any property left by a client, should the latter omit to pay. The only time he has a "lien" on a customer's goods is when he has done actual work on them, as when he has developed a client's negatives, mounted his prints, or repaired his camera.

RENEWAL DATES

Most insurance policies provide for a fortnight's grace after the annual renewal date, the "cover" expiring at 4 p.m. on the last day of grace. Most companies issue renewal notices, but there is no legal obligation on them to do this. In any case a notice is easily mislaid, or a rush period may cause it to be overlooked. It is also a great nuisance to have renewal notices on different policies arriving at odd times of the year, and if one has a regular date for paying bills it is equally a nuisance to break a busy period for odd remittances. A good plan is to deal with a single company or broker, and to arrange for adjustment of the various policies by which all become payable by one remittance on a single date. The Christmas quarter is a financially inconvenient one for many, but because so many other annual payments fall due then the insurance renewal is less likely to be overlooked, and such an oversight is fraught with more severe possibilities than most others.

INSURANCE OF MANUSCRIPT

Book-writing among photographers has become very prevalent in recent years. One possibly important aspect of this is dealt with in Chapter 11, but apart from the monetary return from it as an investment, every author will agree with the writer that it would be a tragedy of the first magnitude if his manuscript were burned between the time it was begun and that of publication.

When the writer first approached his insurance company upon the subject the latter was extremely hesitant. When pressed, it rather sulkily agreed to "cover" the cost of the paper and the typist's time! The writer pointed out that a piece of work in any art or craft was not valued merely by the price of the raw material and the wages of any assistant who might be engaged to perform an ancillary and comparatively unskilled service. Moreover, that the company did itself set a value of £3 3s. on any one negative the writer might produce on a threepenny bit of film. Further, that on delivery of the finished work to the publisher he would receive a specified sum on account of future royalty, and that it would be reasonable to cover at least that preliminary known sum. No evidence, obviously, could be submitted that the manuscript would with certainty produce any greater amount even though that was extremely probable.

As the result a policy was issued for that sum, but still it was insisted that if damage should occur the writer would be required to "prove" its value.

Having thus "established a precedent" no difficulty or condition was imposed when the writer wished to insure the manuscript of this present work during its long preparation. Moreover, when it was explained that it would probably pass into other hands for editing, and that the owner of those "other hands" might wish to carry it between his office and his home, the cover was extended to both those other addresses, as well as in transit to-and-fro between all three. To the writer this seems excellent service for a total charge of 3s.

NEGLIGENCE AND GOODS

It is often assumed that if damage arises from negligence on the part of an insured person that the insurance company is relieved of its responsibility. That, however, is by no means the case. Though not strictly within the scope of this book it is worth while recounting here the case of the old lady who, for fear of burglars, hid her valuables among the "kindling" in the fireplace before going out. On her return she was so forgetful as to light the fire, with the inevitable consequence. Next day she remembered what she had done, and placed a claim for compensation on her fire policy. The company refused to pay and was sued. It argued that a fire policy covered only fire where fire should not be, but the judge disagreed, and the lady accordingly received compensation.

DUTY ON AGREEMENTS

A photographer may have agreements such as those concerning models (see Chapter 17) and those required when leasing premises. Most simple agreements "under hand," that is those which are signed by one or both of the parties but are not sealed (as with a company's seal) require a 6d. stamp, which may be either an ordinary gummed postage and revenue stamp or it may be an embossed Inland Revenue stamp, impressed into the document within 14 days after it is signed and dated. They are equally valid, but it is advisable to "present" any important agreement for stamping, because various terms in it may affect the stamp duty payable, and in the case of a subsequent dispute an improperly stamped agreement is producible in Court only under penalty.

STAMPS ON LEASES

Upon a lease of premises, where no premium or other consideration is paid for the lease, and where the lease is for an indefinite term or for one not over 35 years, the stamp must be according to the annual rent, as follows—

<i>Annual Rent</i>			<i>Stamp</i>	
£ 50	..	..	.. 10s.	
75	..	..	.. 15s.	
100	..	..	.. £1 0s.	
150	..	..	.. £3 0s.	
200	..	..	.. £4 0s.	
250	..	..	.. £5 0s.	
300	..	..	.. £6 0s.	

If a premium is paid,
double these
amounts

If a premium is paid for the lease the stamp is similar to that on a conveyance of property. A solicitor should be consulted in either case, before the document is agreed.

METHOD OF STAMPING

A document may be taken for stamping to any Post Office doing money-order business, or to one of the following Stamp Offices—

London	Bush House, South-west Wing, Strand, W.C.2.
London	61, Moorgate, E.C.2.
Birmingham	Richmond House, 84, Newhall Street, 3.
Bristol	26, Baldwin Street, 1.
Cardiff	96/97, St. Mary Street.
Leeds	Carlton Chambers, 84, Albion Street, 1.
Liverpool	Cotton Exchange Building, Edmund Street, 3.
Manchester	184, Deansgate, 3.
Newcastle	63, Westgate Road, 1.
Nottingham	Queen Street.
Sheffield	Revenue Buildings, 123, West Street, 1.

Usually the most convenient method for official stamping is to send the document with a covering letter and the amount of the duty in postage-stamps to the Controller of Stamps at the Bush House office above. Return postage need not be included.

VERBAL CONTRACTS

It is often assumed that an agreement or a contract has no legal force unless it is in writing, but this is far from true. Verbal agreements made in the ordinary run of a photographer's business, which concern work or the sale of goods up to the value of £20 are usually enforceable by law. There are three conditions necessary to a normal business contract, namely an offer, acceptance of the offer, and a "consideration"; and to be effective all three must be present. An offer to do certain work at a stated price, or an offer of employment at a stated wage, if verbally accepted becomes a completed contract for which the normal legal remedies can be sought.

VERBAL ORDERS

Many photographers take orders verbally and complete the bargain with a handshake. In other cases orders are taken over the telephone. If the price is mentioned, or if it is implied that the photographer's usual known charges will apply, such a deal becomes a binding contract. On the other hand in the case of a dispute it would be rather difficult to prove the details or even the existence of the contract. A sound practice, especially in the case of a new client, is to confirm the order which has been received and the terms of its execution, in a polite letter of thanks, as soon as possible after the conversation.

ESTIMATES

The word "estimate" is often used to mean a "rough guess," but in business literature it has a much more legally definite meaning.

For example if a photographer is asked to give an estimate for certain work and does so, the estimated price he states is regarded as the "consideration" for which he has made an "offer" to do the work. If accepted by the client, therefore, it becomes a binding contract by which he must do the stipulated work for the stated price.

AN INSURANCE COMPANY'S VERSION

In view of the precise legal distinction between burglary and house-breaking quoted on page 77, the following questions were put to a leading insurance company :

"What is the position of a professional photographer who, in ignorance of that distinction, applies for a burglary policy upon the contents of his studio, office or workrooms, though no-one lives there? Are his premiums accepted, despite that they are paid to cover a risk which cannot legally occur? Should not such a policy be issued for house-breaking only, and the premium be less than for one which includes burglary?"

The company's reply, received just as this book was closing for the press, enclosed a 155-word authoritative definition of what "house-breaking" includes, and comments : "It is the normal practice when a burglary policy is issued to cover the property of professional photographers against the risks of both burglary and house-breaking, as the property is exposed to both perils."

The author feels that this reply most carefully evades the issue, and gives no answer to the questions asked, but it may serve as a caution to photographers in their negotiations for new policies.

CHAPTER 13

Officials and Their Forms

WHILE COMPILING SOME SECTIONS of this book it has been forced home upon the writer not only that some or other of the many regulations are liable to sudden change, and not only that for information in a given case it may often be desirable to get in touch with the relative official, but further that it may be quite difficult to discover who or where the appropriate official is. What some writers on such subjects often fail to realize is that, to many small-business owners (photographers among them) advice to apply to, say, the "local authority" means almost nothing. To such a man there seem to be so many "local authorities," and some of them may be forbidding in their manner.

UNHELPFUL OFFICIALS

An amateur photographer, or a professional setting up in business for himself, who innocently happens to contravene a regulation will not find his own ignorance accepted as excuse. Yet in his efforts to discover what responsibilities he has (and in business there are many) he is likely to encounter serious obstacles. These may easily discourage him from making full inquiries, but if neglected may eventually trip him up.

It is unlikely that by his own exertions he will succeed in finding the whereabouts of all the appropriate officials or obtain all the forms he should "exhibit," so scattered are the said officials and so vague much of the information which, when run to earth, they give.

In the course of compiling this book, six items of information given to the writer by civil servants proved, on checking, to be wrong.

When at last the patient seeker-after-safety has found the information that he needs, he will learn that it is compulsory for him to obtain and to exhibit certain "forms." These are not only not ordinarily obtainable from the relevant official, but not even all from one address. At the Stationery Office he can buy most of them, but no one there can tell him which he needs. The whole position is, without exaggeration, desperately chaotic. It serves tremendously to emphasize the need for such a book as this. Clues and particulars collected and tabulated by the author, appear on pages 90 and 91.

It is not only to avoid the risk of punishment that a photographer should make himself acquainted with the regulations that concern him, but also to protect himself should he be subjected to what he feels to be unreasonable demands by a possibly over-zealous official.

It is to rectify, so far as possible, the position outlined at the opening of this chapter that the contents of this book have been laboriously collected, extracted, sorted, checked, and (so far as such confusion can be) tabulated.

FINE POINTS

When "fine" or doubtful points arise trouble may sometimes be averted and peace of mind secured by consulting the relevant official or department. On the other hand it will be often found that the official is cautious, vague, and declines to give a yes-or-no ruling or opinion. He may say he "has no authority to interpret" the regulation. That is, of course, not strictly true, for obviously he could not consider whether the committal of an act in question constituted an offence and whether it might warrant prosecution, without having formed an interpretation of the law, or having in his hand one formed by his superiors. A hint on obtaining satisfaction in case of doubt is given on page 76.

A LIST OF OFFICIAL FORMS

FORMS FOR "FACTORIES"

To be posted up in every factory—
Factories Act, Form 1, "Abstract of the Act"
Accident Book

To be posted up in every factory where women and young persons under 18 are employed (even if a single member of the owner's family)—
Factories Act, Form 11, "Permissible Hours"

General Register
To be posted up in every factory where women or young persons work "overtime" (see Chapter 7)—
Factories Act, Form 21, "Particulars of Overtime"
To be posted up in every factory where electricity is used and films (or film negatives) over 14 lb weight are

stored—
Form 954, "Electricity Regulations"
Form 980, "Celluloid Regulations"

10 be posted up where electricity supply exceeds 125 volts A.C. or 250 volts D.C.:

TOPMS FOR SHOPS

in every factor—

be posted up in every factory under the Factories Act, Form 1, "Abstract of the Act" Accident Book

To be posted up in every factory where women and young persons under 18 are employed (even if a single

To be posted up in every factory where women, or young persons work
member of the owner's family)—
Factories Act, Form 11, "Permissible Hours"
General Register

“overtime” (see Chapter 7)—
Factories Act, Form 21, “Particulars of Overtime”
To be posted up in every factory where
electricity is used and films (or film
negatives) over 14 lb weight are

stored—
Form 954, "Electricity Regulations"
Form 980, "Celluloid Regulations"

10 be posted up where electricity supply exceeds 125 volts A.C. or 250 volts D.C.:

TOPMS FOR SHOPS

—GRENADA & GRENADINES

be posted up in every factory under the Factories Act, Form 1, "Abstract of the Act" Accident Book

To be posted up in every factory where women and young persons under 18 are employed (even if a single

To be posted up in every factory where women, or young persons work
member of the owner's family)—
Factories Act, Form 11, "Permissible Hours"
General Register

“overtime” (see Chapter 7)—
Factories Act, Form 21, “Particulars of Overtime”
To be posted up in every factory where
electricity is used and films (or film
negatives) over 14 lb weight are

stored—
Form 954, "Electricity Regulations"
Form 980, "Celluloid Regulations"

10 be posted up where electricity supply exceeds 125 volts A.C. or 250 volts D.C. :
"Electric Shock Precaution" (See Chapter 16).

The prices of forms quoted are "exclusive of Purchase Tax," see below.
(See Chapter 10)
see also Business names, Chapter 10.

All official forms other than the "Electric Shock Business Name, Certificate of Business Name, those concerning Purchase Tax, Inland Revenue, and National Insurance and the like", are obtainable personally or by post from—
H.M. Stationery Office at :
York House, Kingsway, London, W.C.2.
120 George Street, Edinburgh, 2.
39 (41) King Street, Manchester, 2.

tax no information is officially provided! There-
fore sufficient extra money should be sent to
cover it. Any surplus will usually be returned,
especially if so requested when ordering.

•—For Electric Shock Placard, see page 100. The other special forms are obtainable from the relative department, see Official Addresses below.

OFFICIAL ADDRESSES

When a person wishes to consult an official, either personally or by post, he may be pardoned for uncertainty as to where to go, or where to write. The local official's address can usually be found in the telephone directory, provided one knows under what heading to look. If the enquirer fails to obtain satisfaction at the local office, he may write to the head office, again if he knows where that is situated. The following table provides that information.

Subject of enquiry	Reference in Telephone Directory for address of local official	Head office of relevant Department
Insurance cards and stamps Industrial Insurance	National Insurance, Ministry of	Ministry of National Insurance, BLACKPOOL, Lancs.
Workrooms Electricity regulations Celluloid regulations Accidents	Factory inspector Must be reported also to local National Insurance Office as above (see page 53.)	Ministry of Labour and National Service, (Factory Inspector), 8 St. James, Square, LONDON, S.W.1.
Shops Sunday trading Sanitation Child employment Cine films	City Council, or _____ Borough Council,* or _____ Urban District Council, or _____ County Council, etc., etc. *—address to : The Town Clerk, others : The Clerk.	Home Office, Whitehall, LONDON, S.W.1.
Employment (except children) see above	Labour and National Service, Ministry of	Ministry of Labour and National Service, 8 St. James, Square, LONDON, S.W.1.
Taxes P.A.Y.E.	Inland Revenue, H.M. Inspector of Taxes.	Somerset House ² , W.C.2.
Purchase Tax	Customs and Excise Department.	Commissioners of Customs and Excise, City Gate House, Finsbury Square, LONDON, E.C.2.
Duty on apparatus, etc., from abroad	Customs and Excise Department.	H.M. Customs and Excise, Custom House, LONDON, E.C.3.
Business Name	(For addresses see Chapter 10).	Board of Trade, Romney House East, Tulton Street, LONDON, S.W.1.

CHAPTER 14

Dangerous Chemicals

SPEAKING GENERALLY, AND HAVING particular regard to the quantities and the ways in which chemicals are used in photography, as well as to the comparatively dilute condition of most of the solutions, the element of danger from them is minute. Yet it is there, more especially if the photographer is using certain ones which are unfamiliar to him. In some cases and in some ways certain chemicals have legal implications, and no one who uses chemicals should be ignorant of what carelessness can cause.

In one sense, all photographic chemicals are dangerous. That is, if they are frequently spilled or splashed about the drops will dry and crystallize. Then the minute crystals will be swept up, by brush and wind, and some of them will fly about invisibly. Some will be swallowed, and some will settle where they can harm new photographs. The writer has seen walls and floors crumbling away where hypo fixing-baths have been constantly and carelessly slopped over. He has himself had nasty slips on other people's floors saturated with hypo-drips.

POISONS

Some chemicals, of course, are scheduled poisons and can be purchased only from a chemist who knows one personally, or by professional photographers direct in bulk from their wholesale house. Other chemicals, especially corrosive acids and inflammable fluids, may not be sent by post or rail, and a photographer residing far from a town may experience difficulty in getting some things he wants. Many photographers, of course, use no poisons, corrosive acids or inflammable fluids, and most of those who do use them keep but very small quantities in stock. Some photographic dealers who are not chemists may become "Listed Sellers" of certain products which are, or contain, poisons.

Some chemicals, though not poisonous in the accepted sense, are nevertheless liable to set up dermatitis (skin inflammation) in persons who have a tendency that way. This, and accidental injury from corrosive chemicals, have relation to the National Insurance Acts (see Chapter 12).

In order to allay alarm and to put suspicion in its place may it be pointed out, for example, that although full-strength ammonia can be a terrible menace if one broke a "Winchester" (half-gallon) bottle in the darkroom, nowadays in photography it is scarcely used except in drops for colour-work. So that a much-diluted half-ounce will serve quite well and can harm nobody. Again, ether is an inflammable fluid which may not be sent by post or rail. It is a constituent of ground-glass varnish, of which the writer's two-ounce

bottle has lasted years. If one had a leaky gallon can in a motor-car, one might be stupefied by the fumes and then be burned to death. But no photographer would want a gallon of it. The whole question is one of proportion and of common-sense.

In these notes the following indications are used :

(P) is a poison which can be bought retail only from a pharmaceutical chemist.

(L) is a poison which can be bought also from a " Listed Seller."

(C) is a poison which can be bought from a Listed Seller only in the original closed container.

If there is no indicating letter there is no restriction.

ACETIC ACID : In small quantity is used in uranium intensifier and in a stain-remover. When mixed with sodium sulphite solution to form the acid content of a fixing-bath, if carelessly compounded or too hot water is used it gives off sulphurous acid gas, which is irritating to the lungs and may be harmful in a small darkroom.

AMMONIA (L) : Liquid ammonia of 0.880 strength gives off fumes extremely distressing, and sometimes dangerous, to the eyes and lungs. At full strength it should not be allowed to get on the skin. Its only photographic uses are, much diluted, in developer for colour-work, and as a darkener after bleaching in a mercury intensifier.

BARIUM SULPHIDE (P) : Occasionally (but rarely) used as the darkener after bleaching, in two-bath " sulphide-toning ; ; " that is for turning grey bromide prints into brown ones. It is almost insoluble in water, but the extremely weak solution is as active as, and keeps much better than, those of the more usual potassium or sodium sulphide.

POTASSIUM BICHROMATE : Its uses in photography are, in extremely dilute solution, in the so-called " carbon-printing " and allied processes, and in a popular two-bath intensifier. In industry it is known to set up dermatitis, but such cases in photography are probably extremely rare (see page 81).

CAUSTIC POTASH and CAUSTIC SODA (C) : Used in some negative developers, and sold in the form of sticks or small pellets. (Chemically known as potassium (or sodium) hydroxide). Corrosive to the skin, but in the developer at working-strength harmless.

ETHER : An extremely volatile and highly inflammable liquid now virtually never used by photographers excepting in small quantity in " ground-glass varnish," employed by some plate-users on the backs of glass negatives as a basis for pencil-retouching.

FLASHLIGHT : The most popular form of flashlight is not a chemical but a glass bulb, containing metal foil in gas and a low-voltage fuse. Certain kinds are known occasionally to burst, and may be dangerous if glass fragments should fly into the eyes of the operator or another. There are preventive coatings which hold the broken bits together in case of bursting, and there are transparent cellophane bags available with which to cover the bulbs to the same end.

Flashpowder is a mixture of chemicals which, when ignited,

produces an instantaneous, vivid flame. There are various forms, some ready-mixed, others having two separate powders to be mixed by the user. Ignition may be effected by an explosive paper cap like those for schoolboys' toy pistols, by a strip of smouldering "touch-paper," or by electric spark. All commercial forms are now quite safe if used with sensible precautions. For example no person in his senses would fire flashpowder close to curtains or amid the tissue-paper "decorations" found in so many homes at Christmas-time, though the writer has known this to be done! All the accidents with flashpowder which have come to the writer's notice have been caused by equally stupid carelessness.

HYDROGEN PEROXIDE : Is not a dangerous chemical in the usual sense. It is in fact not a photographic chemical at all, but an ordinary item of many people's toilet, though it is known to affect some folk's skin. Its danger, according to the writer's information, lies in its fogging action upon photographic material such as films, which may be stored even in the vicinity of a closely stoppered bottle of it. Such fog might remain to some, in the absence of that information, a baffling, distressing, and permanent mystery, and its brief mention here as "dangerous" may therefore be deemed excusable.

Turpentine, printers'-ink, metallic mercury and radio-active substances, as well as some liquids which give off fumes, have analogous fogging action on light-sensitive materials. Not all such fumes are visibly or nasally detectable, and human sweat, as applied by finger-tips, acts similarly.

MERCURY BICHLORIDE (P) : This, and mercuric iodide, are used in intensifiers for negatives. They are harmful only if one drinks the solutions, and photographers are notably seldom inclined to suicide. Metallic mercury as used in thermometers is occasionally used for experiments in hypersensitizing and has a slight fogging action on film exposed to its fumes.

METOL : This is the popular abbreviation, first used by its German originator, of the compound "monomethyl-para-aminophenol sulphate." Metol is sometimes sold under other names, for example Elon, and is an ingredient of the most universally popular developer for negatives and prints, known as "M.Q." The metol ingredient sometimes gives rise to a form of dermatitis, consisting of tiny but intensely irritating pimples on the hands and fingers. It affects some people, though most are immune. It seems liable to trouble those who are "run down" in health or who suffer from anxiety.

PHENYLENE-DIAMINE : An ingredient of some fine-grain developers, this is widely reputed to have similar effects on certain individuals, but it has proved impossible to obtain confirmation or positive information, and in any event a negative developer used as this is, in closed tanks of about 1 pint capacity, need never get on to fingers.

POTASSIUM CYANIDE (P) : This is one of the deadliest of poisons, for a minute quantity on the tongue will kill in a few seconds. It is,

however, little used by photographers since it was replaced as a fixer by the new universal "hypo" just over a century ago. Occasionally a solution of it is used for "restoring" a daguerrotype (the oldest form of photograph), or for reducing negatives and prints in combination with a little iodine or potassium ferricyanide. (The latter is not a scheduled poison).

Cyanide gives off the "stale-almond" smelling fume of hydrocyanic acid. This is very dangerous to breathe, so that the stuff should be used only where ventilation is more than adequate.

SULPHURIC ACID (L) : "Oil of vitriol" is also not often used to-day in photography. Formerly, in combination with sodium sulphite it was used extensively as the acid content of the usual acid-hypo fixing-bath. It is sometimes used, diluted and mixed with permanganate or bichromate of potash, as a bottle-cleaner, and occasionally in small quantity for other photographic purposes.

This heavy liquid should be handled, and especially diluted, only by responsible, well-informed persons acquainted with its dangerous behaviour. The stock should be kept where others cannot get at it.

CHAPTER 15

Celluloid

AMONG PHOTOGRAPHIC MATERIALS TWO kinds of transparent plastic sheet are coated with sensitive emulsion. The kind first made was produced by treating cellulose (that is cotton-wool, paper, wood-pulp) in a succession of nitric and other acids in a way similar to the manufacture of gun-cotton. Camphor is an ingredient and gives the product its familiar smell. Like gun-cotton this material, called "nitrated cellulose," burns readily, and when burning gives off enormous quantities of highly inflammable gas. This, when enclosed, is highly explosive and this combination of these three factors obviously gives nitrated cellulose an extremely dangerous character.

One of the first, if not the first, makers of nitrated cellulose called his product "Celluloid," and that became his trade name. The very first films were coated on paper, but it soon became apparent that transparent "celluloid" was far more suitable. At first, although, it was found difficult to get the gelatine coating to stick to its glossy, impermeable surface, and for some time the coated material curled inward like a spring. Celluloid films were first made and sold in 1889. Later, other makers of nitrated cellulose sprang up, and the material took on many other forms and uses; but all, when new, smelled strongly of camphor and all were highly inflammable. The public got into the habit of calling the material "celluloid."

The government, in 1921, introduced a law to help prevent the terrible accidents associated with the handling of nitrated cellulose in factories, and it chose to use the registered name "Celluloid" as the title of the official regulations. This although in fact other chemically identical makes of this material were not celluloid, but were sold under other names. Probably those who drafted the law regarded the word as so firmly implanted in the public mind that to use it would assist their purpose. At any rate those original "Celluloid Regulations of 1921" are still in force under that title in factories and photographic workrooms.

SAFETY FILM

There is a newer material, precisely similar in appearance to nitrated cellulose, which will scarcely burn at all, and which is therefore outside the celluloid regulations. This is called cellulose acetate, and some kind of films are made with it. For example all "sub-standard" gauges of ciné film are coated on this "non-flam" safety-base. This is because the regulations which control the showing of cinematograph films in halls and homes insist on safety film, since these obviously have not the fire-proof projection-rooms of the big cinemas. The types of cameras used by amateur cinematographers,

and their small projectors, are built to take the smaller gauges of these safety films.

On the other hand most roll-film for hand cameras, and virtually all full-gauge 35 mm ciné film is still coated on "celluloid," that is on nitrated cellulose. So are some flat-or sheet-films.

WHY NOT ALL SAFETY-FILM ?

The non-flam acetate film has several disadvantages. It is extremely liable to warp under the concentrated heat of the powerful arc-lights in cinema projectors. When completely dry it becomes brittle, and cracks on the slightest provocation. There it will not stand the wear and tear of those big projectors. Even for the small-gauge home-projectors the safety-films must be kept limp by storing them in cans containing a "humidifier." The moisture may give rise to lack of permanence in the photographic image, as well as set up mildew in the gelatine coating, which would ruin the picture. If reels of acetate film are thoroughly dried out to prevent this they must be carefully re-humidified before putting through the gentlest projector.

The older type of nitrated cellulose film largely avoids these troubles, but there are several special stringent laws which deal with its manufacture, with its processing in large quantities, with its projection on the screen and with disposal of scrap material. These the general photographer is not concerned with, and those who do such things are well aware of their responsibilities.

CELLULOID REGULATIONS

The original regulations were published in "S.R. & O. No. 1825, 1921" (price 1d., H.M. Stationery Office) and are reproduced in virtually identical terms in Factories Act Form 980, (price 3d.) In any factory or workroom where celluloid is handled, Form 980 should be posted up (see page 90).

In June, 1925, a leaflet was published by the Home Office (which then administered the regulations) giving the essential details as they affected a professional photographer. This is now out-of-print, but at that time the authorities knew of no sensitive films used by professional photographers other than cut sheet film, and the same after conversion into negatives. So far as the regulations are concerned, however, the procedure to be adopted has not changed. The matter now comes under the Factory Department of the Ministry of Labour.

OFFICIAL STORAGE RECOMMENDATIONS

The above mentioned Home Office leaflet advises as follows : that provided the stock of sensitive material does not exceed 14 lb in weight, safe storage presents no difficulty and receptacles such as a drawer or cupboard in the private office or other room in which no process work or manipulation of celluloid is carried on would be sufficient to comply with Regulation 1.

Where the weight of negatives does not exceed 14 lb. in weight storage in the above manner is sufficient. Stocks above that weight

should be kept in a fire-resisting store, such as a cabinet or cupboard constructed of fire-resisting material, for example sheet metal, asbestos sheeting, or wood effectively treated to resist flame. A series of wooden shelves against a sound brick wall, entirely enclosed by fire-resisting material would also be a suitable receptacle.

The following precautions, says the official leaflet, should be observed in arranging the store—

(1) It should be of sound construction so that it will not be easily deformed and allow the contents to be exposed.

(2) It should be kept locked.

(3) The door or lid should be so arranged that there is no naked light or open fire in close proximity.

(4) The store should not be situated in a workroom wherein celluloid is manipulated, or on a stair or near a door or in a passage through which persons might have to pass to escape in the event of a fire.

(5) An adequate supply of buckets of water should be kept always available immediately outside the store. Water is the best extinguisher of celluloid.

NOTICES : SMOKING

The official Celluloid Regulations are divided into two sections. Part 1 describes the duties of the occupiers of the premises. Part 2 details the duties of persons employed. Among the requirements of Part 1 are : that a competent person shall be appointed in writing to enforce the regulations, and that a copy of them shall be posted in every workroom and *outside* each darkroom ; while in each Part it is laid down (a shock for some photographers) that "no person shall smoke in any room in which celluloid is manufactured, manipulated, or stored."

CHAPTER 16

Electricity and Water

HERE, AS ELSEWHERE, THE AUTHOR proposes to confine this chapter to such legal considerations of these items as concern a photographer and his work.

The use of electricity has developed in the past half-century or so from an unfamiliar, rather troublesome and inefficient alternative for failing daylight, to an almost universal, indispensable source of light for all photographic purposes.

Amateur photographers are well catered for in the matter of lamps and other electrical apparatus. It has been pointed out by others that darkroom lamps, enlargers, and other items of apparatus are seldom sufficiently earthed, if at all, and that it is easy for a user to touch such a "live" metal object while his other hand is resting on a wet surface or is even immersed in a dish of prints. There are no regulations which can save an amateur photographer from the results of his own indiscretion in this matter.

Another direction in which an amateur photographer might find trouble is when he plugs a fairly high-powered lamp into the lighting circuit of his home. Although the latter should carry 5 amps with safety, in many new houses the wiring is on the skimpy side and its insulation poor, while in many old houses the insulation of the original wiring is badly perished and the conduit may not be earthed at all. Consequently if the wire becomes heated through long burning of high-power lamps, an element of danger from fire is inevitably present. The danger is the greater because the weak point in the wiring that starts smouldering may be hidden away behind woodwork and be surrounded with inflammable dust. The "power" circuit is obviously more appropriate.

Here again there is no official interference with what an amateur photographer does. On the other hand if he gets some new wiring installed in a room in which there is a sink and water-supply he will find that the electrician will not fix a wall-switch to any pendant light, but a ceiling-switch actuated by pulling on a cord. That is to conform with now normal regulations by which lights in kitchens, bathrooms and so on where water-supply exists must either be so actuated or by wall-switches outside the room. This ruling, however, does not apply to the power-circuit switches.

SHOCK AND FIRE

There are several dangers which may easily, and often do, arise from carelessness with electricity. One may oneself receive a severe or even a fatal shock from leakage or short-circuit, or a child may suffer similarly from touching faulty flexes or the metal stand of an

imperfectly-earthed lamp. A kink in a flex and a resultant broken wire can easily cause a fire, especially if the current subsequently passes through only a couple of strands which then heat up, or between the broken ends which spark and ignite the cotton covering.

ELECTRICITY REGULATIONS

A professional photographer, of course, is subject to statutory regulations on the use of electricity, which are in addition to the conditions on which he obtains supply. The official regulations are set out in Factories Act Form 954 (price 2d.) which he is required to post up in his workrooms along with the other notices listed in Chapter 13.

Conditions of these regulations apt to be overlooked are : that metalwork of portable apparatus should be earthed (that is, by means of the three-pin-plug system) ; that no lampholder should be in metallic connection with any other metal part of a portable lamp ; that only an "authorised person" or a competent person over 21 acting under the immediate supervision of the "authorised person," shall undertake any repair, extension or the like where technical knowledge is required ; and that no one shall do such work unaccompanied. This means of course that to carry out such work at least two competent persons must be present.

ELECTRIC SHOCK PLACARD

This is an illustrated instruction-sheet for first-aid in cases of electric shock. It is compulsory to have it posted up in workrooms or in a studio where the voltage of the supply exceeds 125 A.C. or 250 D.C. That is, almost everywhere in Britain where A.C. current is in use, and in a few places where current is D.C. This placard is not obtainable from any government office, but an official list (Form 731) of *firms who publish it is obtainable free from any inspector of factories. The price of the placard varies with the mounting.

PREVALENT ACCIDENTS

A government pamphlet, "Form 929, Electrical Accidents," (price 9d.) states that out of a group of fifty-seven electrical accidents seventeen were due to avoidable negligence "such as replacing fuses without first finding out why they had blown." It also emphasizes the large proportion of accidents which arise from apparatus with detachable flexes, and describes a fatal case of shock due to the sufferer having touched a coverless tumbler-switch while his other hand was resting on a tap. Switch-covers which are missing, or which are alive through contact with a wire-end are fairly common in darkrooms where professionals' assistants habitually make running repairs.

SHOCK THROUGH FLOOR

The conductivity of water-pipes, wet sinks and floors is a factor conducing to the seriousness of any accident which may occur in a

* One of the listed publishers is *Electrical Review* at the office of the publishers of this book, namely Dorset House, Stamford Street, London, S.E.1. The price for an unmounted copy is 10d. post paid.

darkroom. The above publication describes a case where a boy was disabled for a considerable period by a flexible wire which became broken and touched the metal casing of the apparatus he was using. The fact that he received the shock "through the concrete floor" disposes of the common notion that concrete flooring is an insulator.

FLASH-LAMP DANGERS

There are two distinct types of photographic electric flash-lamps in frequent use. The older kind consists of a glass bulb filled with metal foil or other ignitable material and a fuse which is fired by an ordinary low-voltage dry-battery. These can be used once only and the only danger arising is the chance of an occasional bulb bursting and fragments of thin glass being blown into someone's eyes. The explosion is extremely mild, and the rather remote danger is easily guarded against, either by coating the bulb with adhesive varnish or by using a transparent Cellophane bag over it.

The other kind of flash-lamp consists of a heavy and complicated electrical device enclosed in a box. This, on pressure on a button, sends a discharge of extremely high voltage through a special bulb which is used repeatedly. The danger here lies not in the use of the lamp, but in attempts by the inexpert to construct such an apparatus, or to repair or adjust existing apparatus. The technical knowledge required is considerably in advance of that involved in installing ordinary electric lighting circuits or even in the adjustment of radio apparatus, while the danger is many times greater. This should be read in relation to the notes on accidents above and those on Industrial Insurance in Chapter 12. The Industrial Insurance Act of 1946 does not relieve employers of the consequences of accidents which may arise through their negligence.

POWER RATE FOR STUDIOS

Photographers usually obtain the advantage of the lower rate for "power" current in connection with their drying machines, enlargers and the like, but some have difficulty in securing it for the bigger consumption in their studios. It has sometimes been a feature of the situation that a supply authority has allowed power rate for enlargers and printing-boxes on the ground that the lamps are enclosed and do not illuminate the room, but has refused it for the studio. In some cases the argument has proved successful that just as it is the chemical action of the light in printing and enlarging which is the photographic need, so it is in taking photographs. On other cases photographers have had to pay 6d. or more a unit for their studio lighting, while 1d. or less is the power rate available to others. Yet obviously one could easily perform all the visual acts of arranging the subject and of focussing the image with an ordinary 100-watt bulb. The extra power consumption is required merely to activate the chemical silver salts, as in an industrial process. Now that electricity has become nationalised perhaps the issue will be evened out more fairly to photographers.

INSTALLING WATER

When installing a photographic darkroom or the like, the problem of carrying waste water to a drain is almost always far more difficult than is that of bringing water in. The simple, natural fact that a runaway for water must have a fall often introduces technical difficulties, not only by reason of the position on the outside of the building of the nearest drain, but also possibly of local by-laws governing the introduction of waste water to that drain.

The word "possibly" is used advisedly because it has sometimes been found that, for example, the buildings inspector of the local authority insists on by-laws which he may have brought with him from somewhere else, or which may be purely his own imagination, but in respect of which he holds the local plumbers and the like in abject thrall! A shilling for a copy of the official local by-laws may prove a good investment.

WATER RATE

Use of domestic water for amateur photography is not usually objected to, but professional photographers almost invariably are called upon to pay a special rate. Where consumption is large the authority may require the installation of a meter, and will then levy a charge on the quantity recorded. In other cases the local inspector makes a visit of inspection, and sends in a report of his estimate of probable consumption, based on the number of taps installed and the pressure at each.

A photographer may have a lock-up shop or studio which has no water-supply, the processing being done elsewhere. Yet he may find himself charged with water-rate, apparently quite legally.

NEGLIGENCE

If a photographer allows water to run to waste and to overflow over a pavement and it freezes, or by some such neglect causes an accident to another person he may find himself the defendant in a law-suit for damages. Even if the neglect were that of someone in his employ and he himself were far away, he might still be held legally responsible. He might also be held responsible for waste of water.

CHAPTER 17

Libel by Photograph

A PERSON'S CHARACTER OR REPUTATION can be attacked in several ways. Defamation by the spoken word is called "slander." Since this book deals with photographs it may be assumed that we need not consider slander here, though that assumption may not be wholly true, as will be shown. Defamatory matter in permanent form, as in writing, drawing or photograph, etc. (or in any combination of them) is called "libel."

Of the many thousands of people who take photographs of others, few have an idea that one day they may be sued for libel, not necessarily because there is anything derogatory in a photograph itself, but perhaps because it has been published in a way, or in connection with some words, that appears to impugn the character of the individual portrayed, even though unintentionally.

There is a further essential difference between slander and libel, besides the point that the first is audible and evanescent and the second is visible and permanent. This other difference is that a person slandered can obtain damages only if he proves that as the result of it he has suffered or will suffer actual damage or loss; but in libel it is enough for him to show that he has been disparaged or held up to "hatred, ridicule or contempt." The libel laws of Britain are so involved that anyone who is unfortunate enough to feel himself libelled or to be accused of libelling another should seek advice from one with specialized experience. It is impossible here to do much more than to give the barest outline of the ways in which a photograph could become, or has become, a libel, and to show what can be done to prevent trouble of that kind.

PUBLICATION AND TRUTH

A libel may be made the subject of a civil suit for damages, or, especially if it is likely to provoke a breach of the peace, a criminal prosecution may be instituted. In the latter case the injured individual usually would have to pay all costs and cannot have financial redress. In a civil case, the defamatory matter must have been "published," that is shown to a third party, and then it is a perfect and complete defence to show that the alleged libel is true. That is to say it is not a libel if the photograph is a reasonably truthful representation of the subject, and if any appended words are facts. In a criminal prosecution truth is a defence only where the publication of the alleged libel is in the public interest. "Publication" to a third party is not necessary in criminal libel.

WHEN INNOCENCE + INNOCENCE = GUILT

A perfectly innocent photograph, linked to some equally innocent words, can become intensely libellous by mere carelessness or even

accident. For example a harassed press photographer may easily mix up or misspell some names, or his agency's telephonist who transcribes his hurried messages may do the same, with the result that a photograph of, say, "Mrs. and Dr. Smythe, the famous chemist, on their honeymoon at Hightown," may eventually appear as "Mrs. Smythe with 'cellist friend at Brighton." This in the circumstances would be likely to prove extremely painful and unhappy for the lady, and later also for the publisher who, so inadvertently, had libelled her.

It is essential to note here that a suit for damages may be brought against the originator of the libel as well as, or alternatively, against the publisher. This points to the necessity for care on the part of photographers to be accurate when providing publishers with names and descriptions of the subjects of their photographs. To show how an innocent photograph may be allied to innocent words, and thus become a libel one might take the supposititious case of a young single woman shown accompanied by a baby. It might be a snapshot or a studio study of a baby and his aunt, or might be an artificial combination from two separate photographs of unrelated persons.

If such a photograph is the copyright of the photographer he is of course at complete liberty to sell or to license that copyright to an advertiser for reproduction in any form. But if the latter should publish it with such words as "I always feed my baby on", it may easily arise that the young woman is teased about, or is suspected of, unchastity, and she may justifiably bring an action for libel. It is more serious, legally as well as morally, to impute unchastity to a woman than to a man.

The danger to the photographer is that, whether he is a professional or an amateur, he may be joined as defendant with the publisher of an alleged libel. This is because he is the originator of at least an essential part of that libel. If in the outcome he is acquitted, he may still find himself involved in heavy costs for his defence. Even if in the verdict he is awarded costs he still may have to pay them if the model has no means. In any event he would probably have to pay certain of the legal costs himself. The appropriate preventive measure is, when selling photographs of people for such purposes, to obtain from or to give the buyer in writing a statement of the specific purpose and the "proposition" to which the photograph is intended to be put.

SLANDER AND PHOTOGRAPH

A photograph does not speak, and therefore cannot by itself be slanderous. On the other hand it could occur that an unnamed but well-recognizable portrait is exhibited in public and someone utters slanderous words about "that man." The author has never heard of an actual case, but the possibility is exemplified to show how unsafe it would be to assert dogmatically that slander could not occur in relation to photography.

WAS SHE LIBELLED ?

Some twenty-five years ago, according to information supplied

to the writer, a female model whose portrait had been used to adorn a toilet-soap advertisement complained that the wording and the manner of use implied that previously her complexion had been less beautiful than now. She demanded compensation for that alleged injury. This particular dispute did not reach the Courts, but it was the forerunner of several other similar complaints.

The model in each case was well aware that advertising was the purpose of the photographs, and had been well paid for her services. It consequently became evident that an idea had got about among some of these artists' models that there might be easy money to be got out of this young and busy, and supposedly lucrative profession of advertisement-photography, by raising threats of legal proceedings in respect of alleged libellous abuses. Such a threat, of course, can cause considerable trouble and expense even if it does not reach the Courts.

A number of such cases have actually been heard in Court, but of the vast volume of pre-war model-photography (less voluminous now) such incidents constituted a microscopic percentage. Nevertheless it seemed apparent that a new danger was springing up, and a committee of photographers and of advertising agents was set up to study it. In order that the situation should be clearly understood the various circumstances in which recognizable representations of people are made by photography may usefully be summarised. While there is no legal connection between libel and copyright the two considerations do sometimes overlap in this particular connection.

First there is "A," the normal portrait "sitter" who orders and pays for (or is expected to pay for) the portrait to be taken (sitter's copyright). Next there is "B," the sitter, often a notability, who is invited to sit without making any payment (photographer's copyright). There is the legally similar case of "C," the persons photographed by press-photographers at public functions or at their homes, etc. (photographer's copyright). Among "models" there are those "D," who are paid to pose for a specific advertising scheme or fashion periodical (client's copyright), or "E," those photographed for the photographer's stock photographs, book illustrations, or for exhibition studies (photographer's copyright). These last the photographer may subsequently sell or hire at will to advertisers or to publishers. Models in class "E" are in the main professional artists' models, and frequently in fact the same persons as are "D." Both kinds of photograph, that is some for the client and some for the photographer's own stock, are often made of the same model on the same occasion.

In other cases the models may not be professionals, but ordinary people, "F," such as babies, "country characters," workers at their trades, policemen on their beats, or any of a hundred other kinds, and possibly not even paid for posing. The photographs of them are all, however, the copyright of the photographer or of his client. In many photographs of people, class "G," they are in no sense either "sitters" or "models," having been snapshotted casually or even unknown to themselves (photographer's copyright). Only in the case of a person

who orders and is expected to pay for his photograph does the copyright belong to the person photographed (see Chapter 3), but in every one of these many cases and classes he or she may be libelled if the photograph is misused.

It might occur, to take extreme examples, that the likeness of a man might be used in advertising a cure for drunkenness ; that of a woman in one case might adorn a chocolate box but in another a venereal-disease campaign ; or that of a single woman be found recommending a maternity outfit, or a hair-bleach though actually a natural blonde. It is rarely that the character whom a model may portray is intended to be other than a purely fictitious one, but few if any people are completely logical, intellectual or analytical, and some of those who know a model may assume that what is said in the advertisement refers to him or her personally, and that it reflects upon his or her character, health or habits. That seems to be the danger and the damage he or she may claim to suffer.

On the other hand one commonly finds in periodicals dramatic-action-photographs of real young people who show what happens when a person suffers from, say, halitosis or "B.O.," and alongside is seen the happier result of a successful cure. The essential difference here is that in acting a specific part, or in posing for a specific kind of product the actor knows precisely what is required to be represented, and why. Objection can be raised at the time if he or she desires to do so. Trouble is more likely to arise, however, when the photographs taken are for stock purposes and of more general character. From these an intending advertiser may make subsequent selection, but then the model has no knowledge of the intention and has no opportunity of objecting until the photograph has been published and the damage has been done. Similar trouble may arise if an advertising agent who had used some photographs for one proposition decided to use them again for something altogether different, and having bought the copyright or a licence, knows of no reason why he should not.

MODELS' AGREEMENT

It was to prevent the possible consequences of such troubles that the committee of photographers and advertising agents previously referred to drew up certain agreement forms, and these have been in use for many years. One form was to be signed by each model at the time of posing. Another was to be signed by the photographer when selling the results to advertising agents. These forms are printed below.

(A) FOR SIGNATURE BY MODELS

To (Name of photographer)
In consideration of your having paid me the sum of being my fee for posing for the photograph(s) taken by at on *attached hereto and signed by me* I hereby assign to you absolutely the copyright of such photograph(s) and the right of reproduction thereof, either wholly or in part, and the unrestricted use thereof in whatever manner you or your licensees or assignees may in your or

their absolute discretion think fit for all or any advertising or other purposes whatsoever, with any retouching, alteration or working up.

I agree that you or your licensees or assignees are at liberty to use the said photograph(s) and all reproductions thereof either wholly or in part in any manner or form whatsoever and in any medium and either separately or in conjunction with other photographs, drawings or other forms of illustration or part or parts photographs, drawings or other forms of illustration. The said photograph(s) and all reproductions thereof shall be deemed to represent an imaginary person and I hereby authorise you or any person authorised by you including your licensees or assignees to use the said photograph(s) either wholly or in part and any reproductions thereof for any advertising purposes whatsoever or for the purpose of illustrating any statements and/or wording which you or they may desire or think fit to use in any advertisements and agree that no implications shall be deemed to be made with regard to me by reason of such user and that no such statements or wording shall be deemed to be attributed to me personally unless my name is used in connection therewith.

I further undertake, without prejudice to my rights in respect of any implications, statements or wording which owing to the mention of my name may be deemed to be made with regard to me or attributed to me personally not to prosecute any proceedings claims or demands against you or your licensees or assignees in respect of any user by you or them of the said photograph(s) for the purposes aforesaid.

I have read and fully understand the terms of this contract.

Signed Date

*—Strike out where signed photograph(s) not attached.

**(B) FOR SIGNATURE BY PHOTOGRAPHERS SELLING
PHOTOGRAPHS**

Name of photographer(s)

Name of model

Description or identification of photograph(s)

Date

To (Name of Practitioners in Advertising)

In consideration of your having paid me/us the sum of for the photographic study and/or studies described above I/we hereby assign to you absolutely the said photographic study and/or studies and the copyright in respect thereof to use as you or your licensees or assignees may in your or their absolute discretion think fit for all or any advertising purposes whatsoever, including reproduction, either wholly or in part, with any retouching, alteration or working up.

I/we hereby confirm that the subjects of the said photographic study or studies have each agreed (as appears from their signature to a document(s), a copy of which is attached hereto) that the said photographic study or studies shall be deemed to be the study or studies of an imaginary person or persons and that they may be used without restriction either wholly or in part for any and all advertising purposes provided that any implications made with regard to them and any statements or wording attributed to them in advertisements shall in the event of their names being used in connection therewith and in such event only be deemed to be made with regard to them or attributed to them personally.

I/we further agree that you or your licensees or assignees are at liberty to use the said photographic study and/or studies and any print or prints or reproductions thereof either wholly or in part in any manner or form and in any medium and separately or in conjunction with other photographs, drawings or other forms of illustration or part or parts of photographs, drawings or other forms of illustration for any advertising purposes whatsoever and with any statements or wording that you or your licensees or assignees may think fit without prejudice nevertheless to any rights which the subjects of the said study or studies may have in respect of such user or of such statements or wording where their names have been used in connection therewith.

Signed Date

THESE FORMS ARE FAULTY

In the writer's view these unwieldily worded forms are open to several serious objections, with only a few of which has he the space to deal. In the first place he notes (with some cynicism) that the artists' model (but not the photographer or the advertiser) is required to say she understands the form she signs. Both are over-ponderous and, although Form A does not seem to have been seriously objected to by professional models, it might well cause alarm among others whose services a photographer occasionally enlists. In the provinces, at any rate, professional models are few and the use of such a portentous form might well arouse suspicion or resentment. Moreover it certainly is not easily adaptable to such models as children or minors. Many professional models are in these categories but photographers should know that signatures of these young people to agreements are not binding on them, so that the photographer has no safeguard there against his guarantee in form "B."

WHY MENTION COPYRIGHT ?

Even more serious is the first paragraph. This purports for the model to give to the photographer a valuable property (namely the copyright in the photographs) which virtually never is or was the model's to give, and which is already that either of the photographer himself or of his client ! (See Chapter 3).

Throughout the many centuries of drawing, painting, sculpture, and of art-schools, has any single model ever claimed control of reproduction of results ? Why start it with photography ? Even the suggestion that a paid model can deal with reproduction might prove extremely dangerous, and costly to resist. The law of copyright is clear-cut on the issue, and it favours the photographer. Why mess it about ? Why not stick to the simple libel issue, and keep it simple ?

It should be noted that professional models frequently obtain their bookings through models' agencies, in the same way as do actors and the like, and these firms are usually well able to look after their clients' interests.

WHAT DOES HE " SELL " ?

It is in regard to Form B, which the photographer is supposed to sign, that the writer feels it desirable to say more. Apparently it is intended to use this form indiscriminately in the cases of a photographer who sells a photograph of his own copyright outright with all such rights, or another who sells a photograph with a licence limited to one specified purpose or application, as well as of a third photographer who does not sell at all, but who merely takes the photograph to the order of his client. Since only one form has been published this is the inevitable conclusion, but it provides no flexibility or words to cover these constantly alternating circumstances.

The phrase by which the photographer " assigns the photograph " means virtually nothing. When one buys a picture postcard or a

newspaper on the bookstall, that small piece of property is "assigned" to oneself in exchange for the price of a penny. It is scarcely usual to have small articles one buys or sells "assigned" in writing. The same applies to the photographic print in question.

If it is the *copyright* of the photograph which the form is intended to assign, then the word "copyright" is enough. If a limited licence or permission to reproduce is the bargain of the moment, then there should be room upon the form for particulars of it. On the other hand if the photograph was taken to the order of a client, for value to be received, then the copyright is already his, and there is nothing that need be assigned, and the copyright requires no mention. Either the form should be made adaptable, or a differently worded form should be used in each of these three circumstances.

WHY SO ABJECT ?

In the author's submission by far the greatest objection to Form B is that in it the photographer specifically allows the purchaser or licensee to do anything and everything with the photograph that the latter may please, and he himself signs away literally all his legal rights and remedies, including any that he may not know of. Admittedly the rights so given to the purchaser are "without prejudice nevertheless to any rights which the *subject* . . . may have," but even that small indemnity does not extend to the *photographer* ! Does any member of any other trade or profession whatsoever willingly and cheerfully sign away all his legal rights, every time he sells his normal services or hires something out ?

If the firm or person to whom the photographer sells his services or the use of his copyrights does something objectionable later which proves to be not covered by these forms, it might then prove serious for a photographer who has given so wide an indemnity. It might easily turn out, for example, that the Form A which was supposedly his protection is found invalid in the particular case by reason of the model's youth or through some other circumstance. To put the point brutally, bluntly and in common parlance, the sole effect of signing Form B is, in case of trouble cropping up, to leave the photographer "holding the baby" without the slightest compensatory advantage !

STAMP DUTY

Such an agreement, as it stands, may be signed over a 6d. adhesive stamp, but if other unusual provisions are added or substituted a different value may be necessary (see page 85). It is permissible to have a stock of forms impressed in advance with the Inland Revenue embossed stamps. Whether a model would be inclined to regard such a stamped form with more respect, as having more obviously the law behind it, or whether its psychological effect would be one of increased alarm or even of exaggeration of the value of her services, are questions for consideration by those who want her to sign it.

UNSTAMPED AGREEMENTS

The popular idea that such agreements have no force of law unless stamped is not quite accurate. The true position is that if such an agreement has to be produced in Court it must be produced duly stamped. There are, however, means of overcoming this difficulty during the hearing of a case, and this involves a monetary penalty, which is usually remitted to the payer excepting for about £1.

A SUCCESSFUL LIBEL ACTION

Of all the cases which have been the subject of action in the Courts, so far as the writer can discover only one resulted in a penalty on the photographer. This was *Griffiths v. Bondor Hosiery Co.*, 1935, heard by Mr. Justice Swift.

The circumstances as described to the writer were these : A photograph of an unnamed person was taken to illustrate the defendants' brand of stockings, but some objection was taken by their manager to the face of the particular lady whose legs were the essential item of the picture. The photographer therefore superimposed (from his stock of his own copyright photographs) the head of a more charming girl, who had been paid in the usual way for posing. There was no imputation that the resulting advertisement was immodest, but only that the girl whose face was shown had not agreed, and would not have agreed, to let her legs be photographed for advertising purposes. She was successful and the photographer as co-defendant had to pay substantial damages.

WHERE COPYRIGHT CHANGED HANDS

In a second case, *Hood v. W. H. Smith and Sons, Ltd.*, as recounted to the writer, the photographer was only incidental. He had a stock of pleasing portraits of his own copyright (as has every photographer of models) and sold some of them with all rights to an agency. The latter again sold some, either with entire copyrights or with limited licences, to the publisher of a foreign periodical. This publisher printed in his periodical an article purporting to be the "Confidences d'une Amoureuse" with a reference to it on the cover, on which also was a highly-tinted reproduction of one of the photographs referred to. Some copies of that issue of the periodical were imported with others and eventually found their way to a bookstall of the defendant firm. The lady whose face appeared upon the cover of the magazine complained (not unnaturally) that the caption being prominently displayed against her portrait implied that she, the subject of the photograph, was the particular unvirtuous person indicated. The Lord Chief Justice evidently agreed with her that that construction might easily be put upon the circumstances. She was awarded damages against the bookstall owners.

JUXTAPOSITION

In one case the photographer himself was libelled. Someone had snapped him outside his shop-window, in the act of pointing to his

specimen portraits while speaking to a lady. This photograph was printed in a periodical. Alongside it another photograph appeared, namely a study of a nude damsel by a mountain stream. Each in itself an innocuous and ordinary illustration. But underneath this pair of photographs ran twin captions, which read, "Of course for another shilling" . . . "You can have something like this!"

The photographer complained that this juxtaposition combined with the captions suggested that he was prepared to photograph anybody in the nude for an extra shilling, so that he would be regarded by many of his public as an undesirable person, and that his studio would be avoided by decent-thinking people. Although he recovered only £50 damages it was thought by a Judge of Appeal that £500 would have been more appropriate.

OUT-OF-COURT

Many cases occur which are settled out of court. For example an oil company published a simple snapshot of a pair of hikers in one of their newspaper advertisements. The following is an account of what happened, in their own words :

"We chose a photograph supplied by an agency and had it retouched in the hope of making it impossible for anyone to identify the people concerned. In spite of this we received a call from a man who said that the woman in the picture was his fiancée and she had hopes of receiving a legacy from her grandmother who was rather straight-laced and viewed the then popular pastime of hiking with some disfavour. His argument was that the publicity of the picture might jeopardize his fiancée's chances of receiving the legacy and he claimed some damages. Whilst we did not think he had a case we nevertheless agreed to pay him a fee but did not admit any liability.

"We came to the conclusion that the lesson was either to use a paid model or to pay someone a fee. After that episode we took a good deal of trouble to disguise the people shown in the photographs, and in some cases we changed the heads."

As has been shown, however, to employ paid models or to change heads, does not necessarily confer immunity from the risk of libel actions.

LIBEL INSURANCE

It is worth while pointing out that photographers can insure against the risk of libel actions and their consequences. Particulars are obtainable from the Institute of British Photographers, 49 Gordon Square, London, W.C.1.

CHAPTER 18

Photographs for Evidence

IT IS BOTH RELEVANT AND REVEALING to compare the attitude towards photography of those who handle crime, with that of many of those who conduct civil cases in the Courts.

In crime detection and procedure for its punishment the record of photography goes back close on a hundred years. In 1855 Punch was pleased to be sarcastic about a prison governor's proposal to establish a "rogues' gallery" of photographs, but by 1882 Pentonville Penitentiary had photographs of every man in the kingdom sentenced to penal servitude. At Millbank prison the then governor was stated to be keen on photographing, besides the face, the ears and hands of criminals, as being liable to less change in the course of years than faces.

A SLOW START

About 1932, in lecturing to gatherings of police commissioners and other high officials, the writer suggested that, among other useful innovations, a mobile darkroom-van should be considered as a means of speeding-up the processing of photographs of crime-scenes and the like, and this is now a piece of standard equipment. He now finds that such a van was used in Paris nearly seventy years ago !

Up to the time the writer came into contact with that branch of photography its growth in criminal and civil legal work alike had been extremely gradual. Official police photographers in leading cities were usually constables on the beat who chanced to show some interest and some slight skill in amateur photography. Their equipment was usually limited to what they could "pick up" cheaply at some junk-shop. In at least two such cases of police-photographers in important industrial cities a very few years before the recent war, to the writer's knowledge their apparatus consisted of rickety half-plate stand-cameras which some thirty or forty years earlier had been the "popular-price two-guinea" outfit. Such more advanced work as was done was carried out by independent outside specialists.

In 1929 the British Journal of Photography Almanack contained an editorial article based on the work of the Brussels School of Criminology, which showed that then the Belgians were very far ahead of our police in the use of photography in crime-detection.

Even to-day one finds British police authorities themselves inclined publicly to ridicule the portraiture of criminals as at present done, so far as easy recognition of a "likeness" is concerned. To judge by published portraits of wanted men this attitude is well justified, and the technical reasons are not far to seek.

It was in 1928 that the murder of a policeman named Gutteridge was proved by enlarged photographs made by Churchill, a London

gunsmith. These showed that the impressions on a fired cartridge were identical with and were caused by similar markings on the mechanism of the revolver. The murderers, Kennedy and Browne, were convicted and executed as the direct result of the evidence given by the photographs.

Later on the forensic laboratories of the police forces developed such work on systematic lines. A recent book about it is mentioned in the Bibliography (page 148). Photography to-day is a big and important part of the police procedure.

PHOTOGRAPHY LITTLE USED

In the case of civil litigation, on the other hand, there is nothing like this constant, active reliance on photography. Instead, it seems to be used only where it happens to be casually thought of, or where its use cannot easily be avoided. Despite its prevalence in every other science and profession, in the civil practice of the law photography still seems to be regarded as something of a curiosity. It is known that animals and some primitive humans actively recognize their reflection in a mirror but show no reaction to a photograph. There is something of this non-comprehension in the expression of more than one lawyer whom the author has seen examining photographs. Certainly by comparison with the volume of photography used in crime-control, that in the civil courts is microscopic. One aspect of this attitude towards photography is dealt with in the ensuing chapter.

PHOTOGRAPHY NOT NEW

Another factor may be that, compared with law, photography is rather new. Yet photography is not really new, even as an instrument of law. It has been relied upon by the police for nearly a century, yet the writer has never heard of a criminal questioning its truth, even when it threatened his life.

A PRACTICAL DEMONSTRATION

To explain how photography can be of help as evidence in civil courts, one might, perhaps, suggest a simple demonstration-test. Let it be supposed that it is desired to inform the Court precisely, for example, upon the essential differences between three kinds of wheat-grains, say British, Canadian, and Argentine. An actual sample of each kind would naturally be available in the dispute but not easily examinable and comparable by all. Provide each witness, each lawyer, or other participant in the test, with a magnifying-glass, and let him describe in his own words those differences. Let some uninformed non-technical person act as judge, to see how accurately he can grasp and memorize the various descriptions.

PHOTOGRAPHS CAN SPEAK

Then show the judge a well-made magnified photograph of selected grains laid side-by-side. He would not need those verbal, probably

long-winded, descriptions. Nor would he need to strain his memory. The differences would be obvious and striking, and the photograph would remain before him and be instantly available to all of them.

Another case, perhaps, involves the undue smoke alleged to belch over-frequently from a factory chimney. What is the Court to understand by "belching?" A photograph will show instantly and plainly what was objected to, as well as the extent of the nuisance, more clearly and unmistakably than half-a-dozen "expert witnesses." Almost any of the subjects listed in this chapter might be similarly tried, comparing verbal descriptions with photographs to see, not only how the photograph supports the spoken evidence, but also how it speaks up for itself.

Here are some examples of the kinds of subjects for which the writer has made photographs for presentation as evidence in Court. He has noted them as they come to mind from his memory of his former pre-war practice in and around Chancery Lane.

ANCIENT LIGHTS

Among many cases of this class, one was the subject of appeal based on a charge of fraud. The latter was proved by photographs, including those of the underlying blank pages of a building-foreman's note-book, showing that he had actually built an extension to a building higher than he swore to in the previous hearing.

ROAD ACCIDENTS

Road accidents are perhaps the most numerous class in which photographs are used. They include skid-marks, photographs of wrecked cars to show the extent of the damage, and often can show who was to blame. Other photographs would show which was the "main road"; why the driver could not have seen the sign; why the driver could not have seen the child leave the path; that the damaged tram-rail which had thrown the cyclist had negligently been left unrepaired, and stood high above the road.

CHIMNEYS

Photographs were made to show that one chimney was dangerous through leaning; to prove that a chimney was smoking unduly too often and for too long; in another case to show that at least a hundred other chimneys than the one accused were smoking unduly in its vicinity on one day alone.

WINDOWS

Photographs were taken of the window which was watched by the police for three days, to show they could not have seen what occurred so clearly as they claimed; the window from which it was alleged the squire's wife fell accidentally, and died; a shop-window was photographed surreptitiously because the gowns in it were alleged to have been illegally copied.

LIFTS

There was the lift-shaft that was built contrary to regulations ; the goods-lift in a warehouse used by an employee who fell to death ; the lift-shaft down which the principal of a great new hospital fell and was killed ; the lift-shaft which crushed a man ; the lift-shaft that shot up through the roof ; the coal-mine lift-gear that went wrong, and the conveyor in a brewery that took away the mash ; the underneath of an escalator.

FIRES

Details of burned timbers in a West End store were photographed for the insurance company ; the power-house furnace which fused the fire-bars was too bright to look at with the naked eye, but the photographs were taken to disclose the cause of the trouble ; there was the case of frayed flexes which caused an accident ; the live bus-bars which burned and crippled a workman.

MACHINES

The linoleum-printing machine that crushed a girl's hand was photographed to show it had no proper guard ; similarly a grinding-machine that had scalped a man, because it was too close to the machine at which he worked ; there was a machine-belt for which it was claimed it could not break or slip ; the accounting-machine bars were photomicrographed to establish whether the breakages were due to flaws or to strain in use.

MISCELLANY

Other photographs demonstrated how paint blisters ; how cleansing-powder scratches paint ; how the doctor's bag tripped a woman so that she died ; how leather "breathes" ; how real cork-tips have "cells" ; that egg-shells have pores ; how a night-latch works ; how false teeth are fixed to dentures ; how dust jumps into a vacuum-cleaner.

It was easier to illustrate the dust-bin that was too near the larder ; how the tenant's fixtures had been too roughly removed ; the railway notice that was illegible ; that a statutory notice at the cafe was exhibited according to the regulations ; that the wood-grain was not real mahogany ; the almost indecipherable post-mark to prove when the letter had been posted.

Again, the blotting-paper impression was made plainly legible ; it was also shown by photograph that most cars took the wrong side at a certain spot, because the road-camber forced them to ; it was not quite so easy to photograph the man receiving compensation when he ran to catch a bus ; that a man would never walk again ; that olive oil was impure ; that the hammer had been placed where it was found, and had not fallen there by chance ; that the box had been forcibly, not accidentally opened ; that a word had been erased ; that the water was infected.

The writer has known photographers to make, or has himself made a photograph to prove the identity of a plant ; the identity of a cartridge with the weapon that fired it ; the identity of a corpse, and of a letter with the typewriter on which it was written ; that of the signature to the letter ; another to explain the quality of face-powder ; the bad quality of certain castings ; to prove that a wall had been built too high ; that another wall had sunk ; that a crack in a wall was widening ; that the denture did not distort the patient's face. While this is being written someone points to a newspaper paragraph stating that the body of an executed politician was photographed to prove to his nation that the right man had been hanged.

TECHNICAL FACTORS

There are few things that photography cannot help to prove more easily than many words. The writer does not propose to detail the various adaptations of technique involved in making photographs of so many kinds of subjects. In some cases the weather might be an adverse factor to be overcome ; in some the colour of the subject or the quarter in which the sun was shining at the essential time. Sometimes a factory-manager has in mind the production-troubles and financial loss that would arise if his constantly-vibrating machinery were stopped to allow a photograph to be taken. Such difficulties are innumerable in their variety, and come constantly on top of purely photographic problems, such as of the camera, film and lens best suited to the case, and of the "exposure" to be given. The last-named factor alone may range from the thirty-thousandth part of a second up to several hours or as in the writer's experience, two or three days. That is to say a range of about eight-thousand millions to one. No meter can be any guide in such extremes.

PHOTOGRAPHS FOR LICENSING SESSIONS

Solicitors who prepare, on behalf of brewers, applications for submission to Licensing Sessions frequently include in briefs to Counsel a photograph of each premises, whether inn, off-licence, or hotel. It is noteworthy that although no effort or expense is stinted in preparing verbal argument in favour of the client's case, the persuasive power and visual argument of the photograph is often poor or completely wanting. One must conclude that neither brewers, solicitors nor counsel, and perhaps not even the photographer employed by them, has the least conception of the dignity, the mental influence conveyed about the subject by a well-made photograph, as opposed to the belittling effect of an unskilled snapshot. Even when the argument is that the premises represent an asset, an addition to the amenities, the kind of photograph put forward is as though in place of counsel, some shabby little fellow stood up, then mumbled some unintelligible words, and quit.

DIVORCE : COURTS MARTIAL

Sometimes photographs are used as evidence in cases of divorce. They would usually be such as are discovered or collected rather than

specially made, and if a detective is employed it is usually advantageous to supply him with a portrait of the person to be watched. A photograph which proved that certain people holidayed together at a certain place or time would represent the kind of photographic evidence most usual in such cases.

Similar evidence has been employed in courts martial. In this case, though, it may occur that the court decides to have photographs taken of places and of objects which cannot be brought to or visited by the presiding officers.

CAUGHT IN THE ACT

Very many years ago a method was published showing how to connect the shutter of a concealed camera through electrical contacts with a flashlight, so that an intruder such a burglar would be self-photographed either on entering the premises or on rifling a till or handling some other pre-determined object. This was a simple adaptation of the still older method of photographing wild animals at night on their approaching or seizing a bait provided with a trip-wire or with contacts. This latter plan, one may assume, is still in use. The disadvantage for detective purposes of this device is that a flashlight would alarm the human intruder, who would then easily find the camera and destroy it along with the evidence contained in it. The method was therefore unreliable, and never came into favour.

A PRACTICABLE METHOD

On the other hand it has become practicable in recent years to operate this method with a flash so faint that it would be even less noticeable than if a fuse had "blown"; at the same time its source would be much more easy to disguise. The method is to cover the flash-bulb with a special deep-coloured and apparently opaque bag. While preventing the issue of all but a minute and instantaneous red glow, the bag emits sufficient of the invisible infra-red rays for a photograph to be taken on an infra-red plate. In this way an excellently recognizable photograph is taken of the intruder without his realizing it.

It is not to be expected, though, that such a service is obtainable on demand. Infra-red material does not keep well and few photographers keep it in stock. Besides that it is peculiarly contrasty and lacking in "latitude." Therefore a photographer called upon to do such work would require ample time, first to obtain his material, and then to make experimental exposures and to standardize his technical conditions. He might also wish to arrange for a special insurance policy in case his victim did by chance detect the presence of his costly camera and acted violently on it.

WITNESS FEE

A photographer who is called up to "prove" his photographs in Court is entitled to a fee over and above his charges for taking the photographs, and it will be payable whether he undergoes cross-

examination, and even if he is not actually called to the witness-box. His fee as an "expert witness" is usually a matter for decision between himself and his client, but if it is unduly high for his status it may be reduced by the Taxing-Master who passes "costs" after a case has been concluded.

CHAPTER 19

Distortions and Illusions

IN THAT SIDE OF THE LAW which deals with crime, as has been shown, photography is used extensively, but far less so in civil cases. How far that is attributable to tradition or inertia is hard to say, but it may be due also to lack of understanding of the possibilities of photography, coupled in some cases with a shade or more of unanalysed suspicion. There are certain current sayings, amounting almost to beliefs, which bear upon this question. One saying is that "the camera cannot lie," a palpably untrue statement that persists in the face of ample evidence to the contrary. There is the almost equally prevalent belief that "photographs are easily faked," which is also largely untrue. Photographs are sometimes faked ; but never easily, and never when they are legal evidence.

The supposed ease of faking photographs, and the likelihood (or otherwise) of faked photographs making their appearance in a court of law, are matters dealt with in Chapter 20. How and when the camera can lie is the subject of the present one.

Photographers, when called upon to "prove" their photographs in Court, are rarely subjected to cross-examination about them. Usually the photographs are accepted without question by both sides. On more than one occasion the writer has made photographs for both sides in the same case, and both sides have been satisfied to so accept them. The difficulty might arise that counsel insufficiently familiar with the technics of photography to be certain of his ground in cross-examination might nevertheless not feel entirely satisfied on the validity of that evidence. On the only occasion in his long career when the writer was subjected to cross examination the single question asked was : " You know that photographs are liable to distortions ? " His answer was : " Yes, it is my job to know them and to keep them down." That ended that cross-examination, but gives rise to this chapter.

VERBAL EVIDENCE ALWAYS DISTORTED

No one will deny that verbal evidence can be distorted, intentionally or otherwise. Not so much, perhaps, by deliberate distortion of the truth, as by omissions, by over-emphasis, by swamping with irrelevancies, by lack of accurate observation, by idiosyncrasies of speech and manner ; still more by incorrect choice of words.

It can scarcely be contended that photography is capable of so many or such gross divergences from truth as is ordinary human speech. Even if and when deliberately and cleverly its latest possibilities should be directed to that end, photography still lags far behind the power of human speech to falsify the truth. Yet the writer has

not noticed any tendency to do without the use of spoken evidence because it might be falsified !

The plain fact is that lawyers mainly deal with words, and their minds are trained to sense and to recognize the exaggerations and the falsities of words ; or at least when they suspect them to be falsified they know exactly where to probe. But they don't, as yet, know how to deal thus with a photograph. That, one thinks, is why so many of them fight shy of photographs.

WHAT ARE DISTORTIONS ?

In theory, a photograph taken with a camera through a lens is a true likeness, a mathematically-perfect projection of the subject on a perfectly flat surface. For most practical purposes it usually is so. It is often more reliable in both respects than an architectural or engineering draughtsman's scale-drawing. Every architectural drawing has, in fact, departures from the truth. It usually tends to be a flattering "likeness," and it is untrue if only by the breadth of its own lines, and by its idealistic representation of all buildings (and parts of buildings) as perfectly rectangular. That most are far from it is known full well by every man who has papered the walls of his own house, or fitted lino to its floors, as well as by every woman who makes curtains for her windows.

A photograph has no lines of no-man's land between one area and the next, so in that way and to that extent it is more accurate than the most perfect drawing ; but it may have equal or greater inaccuracies from various causes. Some of these, such as expansion of the paper, are equally liable to affect a drawing. Such departures from mathematical perfection are "distortions" of the image. A distortion may be obvious to the naked eye, when pointed out and its character explained, or it may be so minute that only scientific procedure can detect its presence.

WHAT ARE ILLUSIONS ?

Often, a photograph appears to be distorted, though actually it is not. Such an effect is obviously an "illusion." It is, however, equally a fact that the vast bulk of the public, including many lawyers and even photographers, is uncritical in these respects of photographs, and is totally unconscious of most glaring faults in them. This, however, is not an instruction book about the technique of photography.

Sometimes a subject looks strange and unfamiliar in a photograph simply because the margins of the photograph are sharply rectangular, though what one actually sees is never clearly outlined except when one looks through a window-frame. Sometimes the same thing happens with a subject one has seen only in dull winter, which has been photographed in summer sunshine, or vice versa. A businessman is often quite unconscious of the extraordinary untidiness of his counting-house until it is presented to his astonished gaze, concentrated into half a square-foot of photograph. There are also

people, who to some extent cannot "read" photographs, in some such way as dogs and cats cannot. Animals and young babies are quite unmoved by photographs, though their own images in mirrors arouse excitement. A few adults seem to retain a measure of that characteristic, and it seems to have no connection with intelligence or education. To those rare cases a photograph means less than an illusion.

ACCURACY OF PHOTOGRAPHS

When required, photographs can be at least as accurate as Greenwich time. They can, in fact be far more accurate than that. For example photographs can show quite clearly what happens in a space of time so short as in the instant that a golf-club hits the ball or a bullet hits its target, or in an area so minute that the naked eye cannot discern it. The accuracy of photographs is used constantly and extensively in plotting maps, in deciding horse and other races, in recording the flight of planets and in multitudes of sciences and industries where their accuracy has proved far greater than the finest human observation or graphic skill.

In recording certain facts, of course, a photograph may subdue or exaggerate other facts or may omit them, just as spoken or any other form of evidence must do. To quote a single, elementary practical example, if an envelope is photographed to show up the faint post-mark, in order to establish the time of posting of the letter, the designs of the adhesive stamps beneath that postmark should preferably be made fainter. In an extreme case the stamp-design might be eliminated altogether by appropriate technical procedure, and the postmark be shown as apparently on pure white paper. The result, strictly speaking, would be a considerable "distortion" from true reproduction, but all the same would assist, and not detract from, the particular point of evidence the photograph was produced to tell.

SIZE AND SCALE

A photograph may be larger or smaller than the subject it represents. It can be, but rarely is, same-size. A photograph, however small, may make the subject appear larger than it is, either by showing it without much of its surroundings, or by having something known to be small placed at some further distance. The latter will then appear still more diminished, and the main subject at close quarters will look still bigger by comparison.

A SIMPLE DEMONSTRATION

The point is most easily understood by a non-technical person upon making a simple self-demonstration. One looks out of the window at a house opposite, and one holds a hand a foot or so before one's face. That hand immediately looks as big as the house. If the head is then turned aside and a camera placed there, it will show precisely what was seen, namely a hand as big as a house. The photograph proves that the well-known law of nature called "perspective"

has not failed. It is by that law that one obtains a sense of distance between nearer and further objects, either by the eye or in a photograph, or any other graphic representation. Yet the photograph remains mathematically true, and if one dimension of the house is known, then by the simplest of arithmetic every other dimension of it or of its parts can be ascertained with reasonable accuracy. And that, even if the building was destroyed and nothing but the crude snapshot remains. Such things are done. All that is elementary, almost kindergarten stuff.

Both distance and height are liable to appear exaggerated in visual effect by undue nearness of viewpoint and by the extent of the view included by the camera-lens, or afterwards cut off from the print. Yet if dimensions are important to the case, there is no evidence in the world which can be more positively and mathematically accurate than is photography, if properly executed and controlled.

OPTICAL ILLUSIONS

In order to understand certain of the illusions which occasionally occur in photographs, and in order also to ensure that their importance is not over-stressed, it is desirable to bear in mind that (quite outside photography) every one of us experiences optical illusions with great frequency, as every schoolboy knows. The said schoolboy whirls a bright object at the end of a string, and it appears to be a circle. That illusion arises from two separate defects in the human eye which, compared with a photographic lens, is a very faulty instrument and one not always to be trusted !

The eye cannot clearly see an object which is moving, and it goes on seeing an object which has moved on. That is why one sees the bright thing as a circle. Some of the common optical illusions of everyday experience are due to other factors altogether, such as conditions of the atmosphere or of the light. Some are due to combinations of the latter with defects in the eyes.

ILLUSIONS COMMON TO ALL

Almost everyone sees distorted images through window-panes, especially if they are of post-war or pre-Victorian glass. Most railway travellers waiting on a platform are familiar with the summer-time effect of the railway-lines that seem to shiver. The hotter the weather the more they seem to shiver. It is the movement of invisible layers of intervening air, not of the rails, which bends the rays about. There is the common illusion of the cricket-ball that seems to change, while in flight, into a bird. When a spoked wheel is in rapid motion, no one can see the spokes, and the wheel looks like a disc. At night there is the twinkling of the stars, while from each street-lamp there seem to radiate sparkling rays of light. Both these effects are non-existent and imaginary ; they are "optical illusions." There is also the illusion experienced by everyone who visits the cinema ; that of movement of the "moving picture." What is actually projected on

the screen is a succession of absolutely still pictures, at the rate of twenty-four per second.

It is, in fact, the existence of the defect called "persistence" in the human eye, which allows it to continue to "see" each still picture in the black blank interval between its own appearance and the next, which produces this remarkable illusion. It is that illusion which allows the whole huge cinematographic business to exist. It is due to such imperfections of the human eye and mind that so many witnesses are ready to give positive assurances of having seen things happen, which could not possibly have happened as they described the incidents. There is the kind of illusion typified by the "inverted cubes" illustrated in many books for children.

ILLUSIONS IN PHOTOGRAPHS

Beside all these common, purely human illusions, those in photography are few, rare, and insignificant. There is the illusion of unfamiliarity or unreality when a small object is magnified and is dissociated by the clean-cut outline of the photographic print from its usual surroundings. A grasshopper thus treated looks like a fearful prehistoric monster, while a minute watch-part may look like a rust-pitted anchor from the sea-bed.

EXAGGERATED PERSPECTIVE

An exaggerated effect of perspective or of distance is not really a distortion, but it is an illusion due to the camera being used to record a subject either from an unfamiliar viewpoint, or to record more or less of it than the eye normally includes in its gaze. It is not only in views of buildings or of road-scenes that this illusion of false perspective may appear. In photographs of people and of small objects taken at close quarters it is common. Faces photographed from low-level in those circumstances look prognathic (that is, heavy-jawed and narrow-headed). Although one is unconscious of that effect when in close conversation it is only because for one thing one is then more interested in that conversation than in optical research, for another because few of us are trained to "notice," and for a third because one's eyes are imperfect and for ever on the move.

NATURAL RELIEF

Finally there is the illusion of relief. In some photographs the subject seems to "stand out" from the paper print, as though it were the actual, solid subject that was photographed. When one sees a real thing thus stand out in ordinary experience, it is due to our having two eyes, which see the object a little bit from either side. Shut one eye, and one has the greatest difficulty in deciding just how far off things are, and how much space there is between them. They do not then have that standing-out appearance, and one easily collides with them.

A camera, however, has but one "eye," so that when the subject of a photograph appears to stand out in "stereoscopic" two-eyed

relief, it is because that optical illusion has been introduced into the photograph. This appearance of solid, natural reality can get into a photograph is either of two ways. One way is by lucky accident. The only other way is by superlative craftsmanship.

REVERSED RELIEF

This is an illusion which occasionally occurs in such technical kinds of photographs as the magnified images of small details and textured surfaces. It is most likely to be experienced when there is no familiar recognizable item in the print by the light-and-shade on which the eye appreciates which are the raised and which are the sunken portions. The result is that sometimes, and to some eyes, the relief appears inverted, that is the parts which in the subject are raised appear sunken and vice versa. Sometimes while looking at the photograph the inverted relief will suddenly correct itself, or the correct effect appear to turn inside out, like the cubes mentioned on page 123.

WHAT DOES A DISTORTION DISTORT ?

A legal reader of this chapter has remarked that it tends to confirm his suspicion of photographs in technical cases unless compared by expert technicians (for example architects in building cases) with the actual originals. He asks, for example, should he distrust photographs proving cracks in walls ? The author replies that by no means should such photographs be mistrusted ; and that this is only one more question which shows how important it is that these matters should be more fully explored than is possible in the confines of this book.

In the first place, a photograph showing cracks in a wall is clear undeniable evidence that at the specific time the cracks were there. The photograph, if properly made, will show how far the cracks extended in each direction, and to what details of the structure. In the second place such a photograph explains to a judge and jury at a glance, without the need for long and involved technical dissertation, all the relevant points about the wall and its cracks. In the third place, if two or more successive photographs were taken at intervals of time, and they showed lengthening or lateral displacement of the cracks, then there is obvious proof that subsidence or other displacement has taken place. In the fourth place the photographs would be valuable, should attempt have been made to disguise the cracks, to show what had been done in that direction.

A SPLIT-HAIR MAY OR MAY NOT MATTER

Supposing a technical thickening of the images of the cracks had actually occurred in the photographs, it would in any case be microscopic, much less than the thickness of a pen-line in a drawing. If access to the wall had been denied the photographs would be the only available evidence !

The example of a crack in a wall is used simply because it is one which can be most easily tried out, observed and understood by a non-technically minded person. The actual effect of thickening, if it

occurred, would merely make the crack look slightly more clear-cut. Some conditions might make the cracks look less prominent.

DISTORTION ESTABLISHES IDENTITY

It need not be thought that because distortions and seeming exaggerations may occur in photographs that is altogether a bad thing ; and this section may perhaps be best concluded with a case in point, from the author's own experience :

He was once handed two small portrait photographs. One was an ancient carte-de-visite, bleached by fading to little more than nothingness. It was barely discernible as a likeness of a clean-shaven young man who was stated to have emigrated many years before. The other was of an elderly bearded man, a recently-deceased magnate in an overseas Dominion. Could the writer, it was asked, establish identity between the two ?

The only apparent similarity was that both portraits had been taken facing towards the same side, indicating that perhaps both men had been better-looking on the side that showed most. Under a magnifying glass it appeared that the ear seen in one bore some resemblance to the other. The experiment was tried of copying and considerably enlarging the ears alone. The copy of the pale faded specimen was treated with the maximum of all the contrast-increasing "distortions" that the writer could think of, until at length it approached in some degree to the normal brightness of the other portrait. The pair of ears, thus tremendously enlarged in two oblongs side-by-side and isolated from their normal surroundings now looked huge and in other ways curiously unreal. By reason of the undue enlargement of the image-grains in the small originals their definition was now considerably distorted and the granularity was very coarse and obvious. The ears in consequence looked more as though hewn from speckled granite than like human flesh-and-blood. Yet the juxtaposition of those two weird-looking, crude results, apparently false, gave outstandingly convincing evidence that the two ears could have been worn only by one man. The judge was satisfied of that conclusion.

A MATTER OF DEGREE

If grouped together and discussed in detail, the variety of distortions and illusions that can occur would perhaps excite surprise. Yet even in most things that one says there is a slight distortion of what one meant to say; and, as in verbal distortion of the truth, it is all a matter of degree. In practice the occasions when one or other illusion or distortion occurs and clashes with the legal point at issue will be few and far between. If, on the other hand, it should appear to do so then the author wishes to submit that if a capable photographer had been properly consulted and informed upon the points at issue in a case he would have been able to ensure that any such clashing would not occur. The value then of photographs as evidence would be more firm than ever.

CHAPTER 20

Faked Photographs

THE MOST ARDENT ADVOCATE of photographs for use in evidence cannot be blind to an occasional indefinable suspicion, expressed at times in the most influential quarters, that there is a possibility of faking them before presenting them as evidence in Court. This objection usually appears to lurk in minds detached from ordinary business life, and it may arise from lack of knowledge of the vast extent to which photography is used to-day for providing reliable evidence of fact in other directions than civil law. Yet it is used to serve that specific purpose in almost every important industry, and certainly in every modern science, including that of crime detection.

ALL EVIDENCE IS FAKEABLE !

No one would deny that verbal evidence can be completely false. It can be false both wilfully and unintentionally, and the former is in itself a specific crime. It is also obvious that written evidence can be easily "faked."

Medical evidence is notoriously questioned as to fact, but no one suggests that it is faked. Even mathematics may be questioned as to its validity, for it is well known to be capable of adaptation, but when accounts are submitted to a Court is the first question whether they were "faked"? In plain English there is scarcely any form of evidence that cannot be faked. It is true that photographic evidence could also sometimes be faked, though far less easily than most other kinds.

EXAMPLES OF "FAKED" PHOTOGRAPHS

Illusions to which the eye and the photographic lens are liable have been discussed elsewhere previously, as are also the distortions and bias which can affect some photographs (see Chapter 19). The question here is of deliberately faking photographic evidence.

Almost from the earliest days of photography there have been "trick" photographs, and there has been "retouching." Both are used in many forms of commercial illustrating. Examples of trick photography which the author has made are: a picture of pigs flying across the Thames at Westminster; a three-eyed man, a six-legged sheep; and a camel striding through the eye of a needle. These would scarcely be produced in Court as evidence of anything excepting of the possibility of faking photographs. Common examples of retouching are the beautifying of the face and figure in portraits and of manufactured products in publicity photographs.

The former are retouched with pencil and with knife upon the negative, and the latter work is usually done upon the print before the printing-block is made from it. In either case the actual work

remains clearly visible on one stage of the procedure before the final one, and in either case most of the work is removable with water or with spirit.

PRODUCTION OF THE NEGATIVE

It is customary for the negatives of photographs produced in evidence in Court to be available, presumably as proof of bona fides. If suspicion of faking should be entertained this precaution would in point of fact not be by any means conclusive, for it is simple to make copy-negatives from faked photographs and these would be adequate to deceive a layman into supposing that the photographs had been made from the negatives produced, in place of vice versa !

On the other hand it can and should be said that to determine that a particular negative was, or was not, made with a particular camera is usually fairly easy, and that many cameras will not do copying in addition to more ordinary kinds of work. Besides that, a skilled commercial photographer (from long association) can usually detect at the merest glance a copied negative or print, though he might not be able so easily to describe to a judge and jury how he recognized it as such.

CAN PHOTOGRAPHS BE FORGED ?

Both in the normal production and in the forgery of bank-notes and the like, two highly-skilled photographic processes occur. It is not supremely difficult for a specialist-photographer to make a copy of, say, a document so that when laid side-by-side with the original the owner may at first glance question which is which. On handling the two, however, and on examining their textures front and back, a child can recognize the differences. That degree of skill, though, is far less than that required for *creating* or forging an original document by photography, let alone a photograph of other non-existent subjects.

CHAPTER 21

Forgery : Its Prevention and Detection

WHENEVER THE STATE or other large organization issues paper money, coupons or similar printed means for enabling the bearer to obtain his share of products or facilities, the photographic forger soon gets busy. Most of such printed matter starts with a photo-reproduction of a hand-drawn design, and most forgeries start with a camera-copy of a genuine original. The resulting negative is printed down on photo-sensitized metal which is etched with acid and then becomes the plate from which the forged copies are produced in an ordinary printing-press. Sometimes hand-engraving supplements the photography.

Sometimes the printing is done on stolen paper bearing the authentic water-mark. Where the original is printed in two or more colours the forger's work is more complicated by his need for making colour-separation negatives and for printing in accurate register from a succession of printing-plates.

FORGERY IS HIGHLY-SKILLED

Such "photo-mechanical" forgery consists of a long series of skilled operations which in ordinary commercial practice is subject to the strictest trade-union sub-division. Therefore when one man does the whole thing alone, in primitive conditions and with makeshift apparatus (a forger has been known to carry on his craft while actually in prison !) one can scarcely avoid a sneaking admiration for his cunning, in both senses of the word. Attention to the problem of foiling him, excepting possibly to some extent by traditional and incompletely successful methods at the higher level of the banknote, seems to be of the lock-on-the-stable-door variety, when horse has gone. The police are informed and are concerned with finding the forger after his products have been broadcast and he himself has vanished.

THE "SET-UP"

Technically-minded and other readers may be interested to realize where and how in the official "set up" responsibility for forgery-prevention arises. It is obvious that the Cabinet Minister by whose orders paper tokens are issued does not devote much thought to, nor has much knowledge of, the possibilities of forgery. Nor is it to be supposed that, say, a potato-and-onion executive, a principal of the tweed-distributing section, or a fuel officer of any rank knows much if anything about the technique of forgery. They may like to approve the original designs for departmental documents to be issued, but will freely disavow all knowledge about their printing and reproduction. Such matters they leave to the discretion of H.M. Stationery Office. The latter nominally does the work, but "farms out" much of it to

big firms of printing contractors. The "S.O." has its own experimental staff for dealing with the problem of forgery.

NORMAL PRINTING NECESSARY

The Stationery Office is necessarily limited in its efforts by the need for sticking to normal printing processes and methods (numerous though these are) which can be carried out by any of its contractors who handle mass-production printing in vast quantities, by the aid of standard machinery and normally-trained printing operatives. Obviously this effectually prevents the use of specialized "secret" printing methods. Another important limiting factor is the desirability of easy recognition of a forgery by the general public. In this direction little success has ever been achieved, and in this crude, uncritical, post-war age, this is perhaps the greatest aspect of the problem.

WHERE ARE THEY ?

The official opinion is that forgery can never be entirely stopped, yet with all the clever craftsmen in the printing-trades, with those in photo-engraving, in making printing-inks and in draughtsmanship, and among experimenters in the fields of colour-reproduction and in some of the less-well-known fields of applied photography, there are brains enough in Britain to foil the forger at the start. The trouble simply is that those brains are engaged on other things.

FORGERY IN DOCUMENTS

When it is suspected that some kind of forgery has been perpetrated on a written document, photography offers the best means of discovering and demonstrating just what has been done. Ordinary examination with a magnifying-glass, even with one which contains its own illuminant, does not necessarily show what a skilled photographer can bring out with control of an adjustable light, its direction, diffusion, distribution, and colour-selection. By the aid of these factors with whose use he is familiar he can also reproduce boldly on large scale the minutest details of handwriting, of erasures, alterations and the like.

FLUORESCENCE

"Fluorescence" is frequently and successfully employed in the detection of forgeries, adulterations and other criminal activities. It is a kind of "glow" which issues from some substances when illuminated by an ultra-violet lamp, sometimes even though they are ordinarily invisible. The fluorescent effect is not regarded by scientists as "light," but it can be photographed as well as seen. For photographic purposes the best results are said to be obtained when the actual ultra-violet rays are cut out by a special filter, so that the image is produced by the fluorescence only.

THE OPTICAL FACTOR

Disappointingly fuzzy results are frequently obtained in making enlarged photographs of small details such as signatures and tiny

objects, simply through unfortunate selection of the lens employed. Most camera lenses are designed to give the sharpest "resolution" of fine detail when the subject is at a long distance away, and few such lenses can give an equal performance at close quarters. Still more is this the case when they are used to magnify the detail.

The price paid for a lens has no relation to this particular requirement, and in fact there are some quite ancient inexpensive lenses which will do this special work much better than the costliest. In any case when attempting to make photographs of suspected forgeries, if the lens is not one of those specially designed for "process" or for "photomicro" work, it should be turned back-to-front when trying it.

Moreover, if it is decided to employ a light filter for any special reason, then focusing the image should be done either with that filter in position on the lens, or through a "dummy filter" of clear glass of precisely the same character and thickness.

CHAPTER 22

Photo-Reproduction Processes

LAWYERS OWE MUCH TO-DAY TO photography for the ease and speed with which documents, plans, and other written, drawn or printed matter can be duplicated by its aid. Within living memory copying in offices of documents and letters was done mainly by handwriting with dip-pens. Some still is ! Then came the smudgy copying-press and the jellygraph, followed by the typewriter and the rotary cyclostyle, and more recently by the camera. More and more government departments make great use of photographic duplication.

It is not generally known how very many are the photographic or semi-photographic processes available, nor what are the particular advantages of each. To provide this information is the special purpose of this chapter.

Few people, including even those officials on whose behalf the Stationery Office publishes vast quantities of illustrated literature, realize the extent to which photography enters into their production. Virtually every drawing and photograph is copied in a special camera to make the kind of negative required for producing the essential metal printing-plate. In a single colour-reproduction often twelve photographic plates are used. Four negatives, namely three "colour-separation" plates and a "grey," may be made from the original, and a set of four positive "transparencies" from these. From those again a further set of "half-tone" negatives is taken for printing-down on copper.

MANY METHODS : MANY USES

Even the Land Registry Certificates supplied to small suburban villa freeholders to-day are largely photographic. The author's own Land Registry Certificate relating to his house has seven leaves of which two are unquestionably purely photographic prints ; while the ornate cover and the enclosed map are certainly printed from plates prepared by photographic processes. The Registry also supplies daily to solicitors large numbers of photographic copies of entries on its Register. Somerset House issues vast quantities of photo-copies of birth-certificates and the like. The General Post Office for very many years has made great use of photography for duplicating its inside tabulated records and the like. Some firms of solicitors have their own photo-copying apparatus of one kind or another, but most make use of a local photo-copying service.

The information below should provide a general picture of the various apparatus and processes available for office use, and of the special purposes which each can best fulfil. For readers who would like more detailed particulars, an address list of the manufacturers is added.

The processes described vary in their convenience and speed, in the number of copies which can be economically made at a time, in their technical perfection for any one particular purpose, in the cost of and the necessary space for installation, and in other respects also such as the ability of some to reproduce shaded originals, for example photographs and tinted plans. It is thought more instructive to deal with them in something like their order of simplicity than in that of their importance. Some of these techniques are designed to be used by the photographically unskilled, while others call for considerable ability. The quality of results obtained, and the adaptability of the process to various purposes and types of originals are, however, usually closely related to the training and ability of the operator. The author has personally worked most of those mentioned, and has seen in operation all the others mentioned here.

BLUEPRINT

From a reasonably clean translucent original, such as a letter in deep black ink or typewriting on thin bank paper, a blueprint of fair quality can be made with ease.

This process has been in constant use for duplicating plans and similar originals drawn on translucent tracing paper for upwards of sixty years. The "original" is pressed in a glass-fronted "printing-frame" with its back against a piece of the pale blue sensitive paper and exposed to light. This "bronzes," darkens and renders insoluble the blue chemicals except where they are protected from the light by the opaque ink lines or lettering. On rinsing the exposed print with water the thus protected chemicals wash clear away, leaving the detail white on a blue ground.

Obviously, white-on-grey bromide-prints can be made from similar translucent written or drawn originals as easily as are blue-prints. A printing-frame which gives perfect contact is essential. Large plans, or a succession of small ones, are copied commercially by feeding in contact with the blueprint paper into a machine which consists of an endless canvas band running round a large glass cylinder in which arc lamps burn. There is a commercial blueprint service in most large towns. There are various other processes used similarly, which give the detail in other colours than white on blue, some of them as positive, that is dark lines on white surround, while some are developed in ammonia fumes and are therefore dry immediately after "development."

"TRUE-TO-SCALE"

In this process an endless band of flexible lino is coated with a sensitized melted jelly. When this sets an exposed but unwashed blueprint is rubbed down on it and almost immediately pulled off again. With a roller stiff printers' ink is rolled over the jelly, on which it "takes" to the lines or other detail but not to the surrounding damp gelatine. A sheet of stiff cartridge paper is then rubbed down by hand, and on pulling it off the inked details adhere to the paper. Inking and rubbing prints are done successively by hand. The paper,

being stiff and not wetted, is but little subject to expansion and contraction. Hence the name "True-to-scale," which quality is invaluable to architects and surveyors. In skilled hands the quality of true-to-scale prints can be superb, and up to fifty copies are obtainable from each blueprint impression, but temperature greatly affects the jelly, and the process is best worked in a cool basement.

REFLEX COPYING

In a printing-frame, or in a printing-box containing lights, the document or plan is pressed with its face side in perfect contact with a piece of contrasty bromide paper, with the back of the latter towards the source of active light. Some manufacturers now make a suitable paper specially for this work. The light to which the two are now exposed goes equally over and through the sensitive paper and acts on it, but some light is reflected back again from the white parts of the original. Thus the print is a negative which is grey all over, but is denser where the original was white, and less opaque where it faced lines or lettering. This difference in opacity is accentuated by using yellow light for printing.

From this paper negative as many prints as needed can be printed in the same apparatus and on similar material just as from any other negative. With a little practice and care extremely faithful copies are obtainable.

So far, the processes discussed are limited to same-size copies of originals which are drawn or written on one side only of translucent or semi-translucent paper. This "reflex" process is also confined to same-size copies, but serves well for opaque originals with matter on both sides, each side being copied independently.

CAMERA COPYING

This and subsequent methods are adaptable to reproducing to any desired size or scale originals of any kind whatever, with the proviso that those of a translucent nature should be pressed against a sheet of plain white paper to give maximum brilliance. Any camera of reasonably rigid construction and having ample variable extensibility is suitable for copying documents, and there is a wealth of optical equipment and materials available for dealing with every possible technical emergency. Originals patchily browned with age or having red ink spilled over them can be clearly copied and given greater brilliance than they ever had when new; and the copies may be smaller, larger, or same size.

Those who produce our bank-notes, cheques and postage-stamps, those who forge them, and those, again, who later reproduce the forgeries on larger scale for demonstration at the criminal courts, all these use the good old-fashioned camera techniques. Speed is the only thing they lack, but in emergency a dry and perfect copy can be made in under fifteen minutes.

Documents reproduced in books and periodicals are nearly always first copied into neutral grey by ordinary camera technique.

The techniques of copying cannot be adequately described in detail here. They are outlined in twenty-five pages of the writer's book "Commercial Photography," 1933 edition, which, though out of print, can be read at, or borrowed through, any important public library. Squareness of the camera with the copy-board and of its parts, and evenness of the illumination are the principal essentials.

Infrequently used variants on straight camera methods are infrared and ultra-violet techniques, applicable to purposes ranging from the genuineness of paintings to reproduction of antique parchments.

ENLARGER COPYING

Those photographers who use enlargers (and that to-day means nearly all photographers) will often find these instruments at least as suitable for copying as a conventional camera-copying installation, and certainly much more space-saving. Description of the method often appears in photographic literature, and in particular in the third edition of the writer's book "Photographic Enlarging."

PHOTO-MICROGRAPHY

The "low-power" method, which consists of using, not a microscope but merely a short-focus lens on a long-extension camera, is used where enlargement of a particular small detail is required.

For example the character of a single letter on typewritten matter, being bruised or consistently out of alignment, will identify the machine it was written on. Again, where a signature crossed other writing on a document, the actual substance of the ink and the grooves made by the pen-points were enlarged enough to prove that the essential phrase had been added after the signature. On a cheque, allegation that the words "on loan" had been added after its return from the bank was disproved by magnifying the craters of the bank's cancellation holes down whose sides the pen-lines ran without any splutter. Hand-writing experts make great use of such methods.

PHOTOSTAT

This is a large camera built specially to reproduce documents and the like on to sensitized paper, of which a continuous roll is held in the rear of the apparatus. In some installations a developing-tray is also situated there. The apparatus is non-portable, occupying at least as much space as the average sideboard. The copy made is "negative," that is it has white detail on grey ground; but it is not turned left-to-right like other negatives and therefore is easily legible. This is achieved by a reversing prism on the lens, which projects over the horizontal table on which originals are conveniently laid flat in swift succession.

Photographs, and even objects, can be copied on a Photostat, but in unskilled hands results are very crude.

Most people, though, find a black-on-white "positive" result more easily legible, and for this purpose and for further copies the dried negative is itself copied through the instrument. Being strongly-

built, and set by boldly-indicated scales, using fixed lights and one type of material this machine calls for but little more than ordinary intelligence in use. Yet in skilled hands it is capable of a greater range of work, as well as of a far finer quality of result than is usually encountered.

This is the instrument mainly used by the Land Registry, Somerset House, etc. In most towns of any size a Photostat service can be found.

MICROFILM

This is a method and a service which grew up with the late war. Correspondence, whole ledgers and other books, files of documents and the like, are copied in rapid succession on to long strips of cine- or sub-standard cine-gauge film. Thus records of a large accumulation of papers can be stored in a comparatively tiny roll of film. The apparatus is usually a miniature camera of substantial film-capacity supported from a metal post rising vertically from a base-board illuminated by fixed-position lamps.

A logical development from this is the viewing-box in which a spool of the film-negatives can be rapidly run through, their enlarged images being seen in swift succession on a ground-glass screen. When the required item is found, it can be read there and then upon the screen, or it can be identified for making a bromide enlargement in the ordinary way. Theoretically ideal, and presumably reduced to an almost unskilled repetition job, nevertheless results of micro-filming are found to vary from near perfection to atrociously illegible, according to the skill and conscientiousness of the individual employed, and to some extent of the optical and mechanical construction of the apparatus. Uneven lighting caused by incorrect placing of the lights is responsible for much faulty work.

AN IMPORTANT DISTINCTION

Distinction should be drawn between all reproductions made for purely record purposes, in which reasonable legibility is the main or the only requirement, and true facsimile reproductions made to show the character of the original, either for its intrinsic interest or for evidence of authenticity. The methods and the means may be as distinct and different as are these purposes.

No more than mention is required of the completely automatic ingenious photo-copying machines used in great numbers during the war, both for sending letters to and from the troops, and for multiplying and distributing formal information hither and thither in all directions. The ghastly technical feebleness and illegibility of most of the results which have met the writer's eye suggest that perhaps the undoubted mechanical ingenuity of the constructors, and their reliance on the finer limits of optical performance upon film, outran their practical knowledge of the essentials of good copying and of the average technical intelligence of the prospective machine-minder. On the other hand it may be that official demands for apparatus for the purpose forbade sufficient time for efficient development.

REPRODUCTION OF EVIDENCE

This chapter would not be complete without a mention of the fact that documents which have been completely burned have been successfully photographed, and that on more than one occasion reproduction of the impression made by pressure of a pencil through and on the underlying pages of a notebook has furnished convincing evidence in Court despite the destruction of the actual written pages.

Copies of blotting-paper impressions reversed from right to left in printing will read the right-way-round and are convenient appendages to such evidence. Reproductions on small size on extremely thin paper, or still thinner on stripped gelatine or collodion film have frequently been found useful in war. They are easily secreted, and can be carried by pigeons under their wings. This use is far from new, having been used extensively in the siege of Paris in 1870. Now that correspondence is carried in far vaster bulk under the infinitely vaster wings of giant aeroplanes, and having regard to the cost of air-mails, where much matter is to be communicated it might be suggested that these microphoto methods might be advantageously developed, especially if sent in negative form for enlargement on arrival.

PHOTOGRAPHS BY RADIO

Identification of criminals has been effected by transmitting their portraits and finger-prints half-way round the world. That is, of course, not the principal use to which this method has been put. Nine-tenths or more of the traffic is used for news photographs, and the word "traffic" is no exaggeration, for there is a continuous interchange of photographs by radio between the principal cities of the world. Each one takes about ten minutes to transmit, and there is nothing of the dot-and-dash effect characteristic of methods in use twenty-five years ago.

The technical-minded reader will like to know that a 1/100 inch wide light-beam from a small headlight bulb is projected at an angle of 90° through an aperture on to the print clamped to a drum revolving at 100 revs per minute on a long screw of pitch 100 t.p.i. An inch-wide strip of the print is scanned each minute, and the reflected ray from the print goes back through the same small hole to actuate the light-sensitive cells in the apparatus. The strength of the reflected ray naturally varies with the depth of details on the print, and so the light-cell through which that fluctuating ray passes causes a corresponding fluctuation in the electric current being transmitted. At the other end, of course, the fluctuations are received on a precisely similar instrument, and are transformed into a varying beam of light which acts upon a sensitive film clamped to the drum. The lid of the receiving instrument, if course, is closed and the operation takes place in a darkroom where the film can be immediately developed.

The cost of transmitting photographs from Great Britain varies in Europe, from about 25s. to Berne, ranging up to 65s. to Moscow,

according to its size and the destination. Elsewhere from £2 for a 150 sq. cm. photograph to Malta, up to £11 for a 500 sq. cm. print to Montreal or Melbourne.

There are twenty-one offices in London where photographs may be handed in for radio-ing, and nearly that number in the Provinces. Greeting cards and portraits for verifying identity or other purposes are among the things that can be radioed, and cheques have been thus sent from continent to continent, and promptly honoured and cashed upon arrival. At the moment of writing comes the news that photographs (of a test-match) have for the first time been successfully radioed from an aeroplane in flight.

PHOTOGRAPHS BY CABLE

Closely similar methods are adopted by the Overseas Telecommunications Department of the G.P.O. for sending photographs by cable. Photographs, documents and other originals may be handed in at almost any of the main post-offices in London or the Provinces for prompt transmission to any of a host of destinations in all parts of the world. Alternatively originals may be sent, with a remittance for the transmission charge to the Central Telegraph Office, London. By the time this book is published up-to-date details should be in the Post Office Guide.

It is worth noting that the original to be transmitted is not affected in any way, and that where any character of a document other than its wording is in question its reproduction by radio or cable can be more valuable than transmission of the verbal content. This is because the result is a facsimile of the original and thus will reproduce the signature as well as any rubber-stamp impressions, the character of the handwriting with all its imperfections and any other characteristics by which its authenticity may more easily be established.

GESTEPRINT

So far the processes discussed have been suitable, in general, where from one to fifty copies of a document or plan are needed. For editions from fifty to five-hundred something more expeditious and economical is usually expected. "Gesteprint" produces a "stencil" of the typing-office rotary duplicating-machine variety, and is printed from a one-sided original of suitable size on such machines. The stencil is made in much the manner of a photographic print in a printing-frame, on specially sensitized tissue which, after processing, is placed directly on the rotary duplicator, when the required prints are rolled off in the ordinary way. This process has been ingeniously adapted for being worked without a photographic darkroom, that is in the corner of an office, and by only slightly technically-trained staff. There are adaptations of the process for producing stencils from two-sided, coloured, or shaded originals. Quarto or foolscap sizes can be worked.

ROTAPRINT

This is a lithographic printing-process on miniature scale, on the lines of the mammoth installations by which ordnance maps are made. It is often used by small "jobbing" printers, or by more important firms for comparatively small editions. This machine costs several hundred pounds, but it affords the special facility that typewritten matter can be prepared, by means of special ribbon, applied on a specially thin sheet of zinc. From this several thousand copies can be printed.

To print from a detailed drawing it is usual to copy it on a contrasty negative which is printed down on to a metal plate sensitized with albumen. Alternatively if the drawing is on tracing-cloth it can be printed down on to the metal plate without making a negative, by an alteration in the sensitizing procedure. This metal plate becomes the printing-plate for the Rotaprint machine. Services of this kind are available in most large towns.

ADDRESSES

Addresses from which proprietary apparatus, materials, or further information relating to the above can be obtained are —

BLUE-PRINT, TRUE-TO-SCALE :

B. J. Hall & Co., Ltd., Stourton House, Dacre Street, London, S.W.1.

REFLEX COPYING :

Rutherford Ltd., 12/13 Astor House, Aldwych, London, W.C.2.

Ilford, Ltd., Ilford, Essex.

PHOTOSTAT :

Photostat, Ltd., Adelaide House, King William Street, London, E.C.4.

MICRO-FILM :

Ilford, Ltd., Ilford, Essex.

Kodak, Ltd., Kingsway, London, W.C.2.

GESTEPRINT :

Gestetner, Ltd., Aldwych House, Aldwych, London, W.C.2.

ROTAPRINT :

Kaye's Rotaprint Agency, The Hyde, London, N.W.9.

RADIO-ED PHOTOGRAPHY :

Cable and Wireless, Ltd., Electra House, Victoria Embankment, London, W.C.2.

CABLED PHOTOGRAPHY :

General Post Office, Overseas Telecommunications Dept., London, E.C.1.
(or any main Post Office).

CHAPTER 23

Permanence in Photographs

IN SOME PHOTOGRAPHS MADE FOR legal purposes permanence is of relatively small importance, but in others it may be vital. When for example, the photographs are copies of important documents, or are items of evidence in a case whose interest may recur after a period of years, or again if they are likenesses of people, buildings, places, or the like which are to be handed down as heirlooms or as records for the benefit of future generations, then the question of their permanence may not be thought of until too late.

There is no practical difficulty about ensuring that ordinary photographs will be permanent. The problem is mainly a psychological one ! The particular stages of the process upon which permanence depends are tedious, unskilled, and in winter extremely chilly to perform. Also, during those stages no visible change takes place. Such parts of the work are usually relegated to a junior member of the staff, and he is unlikely either to have a knowledge of their implications, or to be overawed by their importance.

The fact that apparatus and materials for document-reproduction are widely sold to be operated by clerical staff with no technical knowledge must tend to aggravate the question, but it will be agreed that if improperly-treated photographs are filed away and are subsequently found to be browned, yellowed, faded — or all three in a mass of ugly blotches — the consequences might be distressing and disastrous. It is a feature of the case that in establishments where photographs of the greatest historical interest are made, namely in press darkrooms, the conditions which pre-dispose to rapid fading of the prints are particularly, almost inevitably, prevalent.

THREE SIMPLE ESSENTIALS

To ensure virtual permanence in ordinary silver-bromide photographs all that is necessary is that they should be thoroughly "fixed," washed, and dried. Subsequent dry storage follows as an obvious corollary, but it is quite useless to be meticulous over the washing, the drying, and the storage, if the prints were not thoroughly fixed in the first place. While this book is not intended to be a technical manual, in view of what has been said above an explanation of this procedure and its implications will not be out-of-place.

Sensitive paper consists of a creamy-yellow chemical called silver-bromide, which is mixed with melted gelatine and is spread evenly on purest paper. When and where this silver-bromide is exposed to light a chemical mixture called "developer" will darken it. The grey or black deposit so produced is mainly pure silver minus the "bromide." The quantity of silver is minute, though, and it is

easily "tarnished" like any other silver, if the gelatine contains or absorbs any harmful agent.

During development the rest of the silver-bromide remains unaltered, and it does not soak out by mere rinsing or even by the most prolonged washing. It can be removed only by a further chemical process called "fixing." This consists of soaking the print in a solution of a salt commonly called "hypo." At once the creamy tinge of the remaining silver-bromide turns invisible. But it is still there! It is still insoluble. It cannot be washed out, but if it is left there it is liable to turn brown or yellow on exposure to light or to ordinary atmospheric fumes. Gradually, though, in the same hypo fixing-bath, a further change takes place. This second change turns the invisible and insoluble residue of silver-bromide into a soluble form, which will wash out in water (if given a proper opportunity to do so) leaving almost nothing in the gelatine but pure metallic silver.

THE HYPO MUST BE FRESH

When hypo solution has been used to fix some prints it soon accumulates much of the invisible silver salts it has "fixed" out from them. It also contains traces of developer, and is partially "exhausted" by the previous use. In that state it will not so readily complete the second, invisible change in further prints put into it. Usually also it is customary to have in it an acid chemical to prevent those traces of developer from turning brown. Therefore a fixing-bath still looks quite fresh and clear, even when it is "exhausted" and may be choked with silver salts. Besides those salts a further ingredient is often used in it to toughen the gelatine coating of the prints in warm weather.

The consequence of all this is that an apparently clean fixing-bath which has had some use has just strength enough to turn the creamy silver salts to white, but is so chock-a-block with invisible but complicated chemicals that it puts some into further prints in place of taking something out of them. No one can see this taking place, but the fate of those prints is sealed. They inevitably die young.

For important prints a good plan is to rinse the "fixed" prints and then to re-fix them in a second, unused fixing-bath which completes the invisible changes. For the next batch of work the latter can become the first fixing-bath; and this procedure is now standard practice in many first-class firms. It should be understood that the "freshness" of a fixing-bath does not at all depend upon how long it has been kept in bottle. It is the work it does that spoils it for the permanence of further prints.

A further important point is that if one print lies across another in the fixing-bath it prevents the invisible action called "osmosis." This is the flow of solution in and out of the pores of the gelatine, just as air flows in and out of our mouths in breathing air. To allow the solution to do its work, all prints should be repeatedly turned over in the hypo-bath, taking care lightly to dab away any air-bubbles

that may be trapped underneath them. Ten to fifteen minutes of this treatment is sufficient.

WASHING

Normally, the completion of fixing is only known by the doing, not by seeing, and the same applies to washing. When a print is fully fixed, all the chemicals will wash out quite readily in plain water, leaving the grey silver embedded in the gelatine. If the washing is not fully done, the effect is to leave other salts there, and these may either themselves attack the silver image, or may attract moisture from the air along with oxydising and other kinds of fumes which will eventually "tarnish" it.

In gently running water from the tap, or by passing prints one-by-one through successive dishes of fresh water, all free chemicals are invisibly washed out. For all ordinary purposes ten to fifteen minutes of steady, conscientious, gentle manipulation will suffice. If a life of more than, say, ten years is required then twenty minutes washing is preferable. It is useless to leave several prints in a vessel with the tap streaming on the topmost one.

TESTS

There are certain simple chemical tests by which one can ascertain if a bromide-print has been completely fixed or washed. The test of thorough fixing is to moisten a white or pale corner of the print, and then to touch the latter with a crystal of a sulphide salt, such as sodium sulphide, barium sulphide, or potassium sulphide ("liver of sulphur"). If the spot turns brown, then it clearly shows the presence of some of the invisible silver-bromide which was not completely made soluble in the fixing-bath. Such a print can be made reasonably permanent by re-fixing, but a permanganate reducer is required if the brown test spot is to be bleached away.

To test whether a fixing-bath is "exhausted," to ten parts of the suspected fixer add one part of a 4 per cent solution of potassium iodide. If there is formed a yellow precipitate, and if this precipitate does not dissolve again on shaking, the fixing bath contains too much dissolved silver to be usable for anything of more than ephemeral importance.

To test whether a print has been thoroughly washed, if it has been dried it should be resoaked. A pair of test tubes or small clear bottles of plain water are stood side-by-side near a window. Into one of them put a drop or two of a solution of permanganate of potash, just enough but no more than to show that that one is faintly tinted by comparison with the other. Then lift the print to be tested by one corner, and when most of the water has run off let the last few drops drip into the "tinted" glass of water. If the tint soon disappears, and both are then equally clear, there was hypo in the print, sufficient to cause premature fading.

It has been long well known that a small amount of hypo is so tenaciously retained by the paper of a print that washing cannot

remove it, nor will the above test show its presence. From prints that are required to have the highest permanence, this retained hypo must be destroyed by chemical means. For this the washed print is treated in a solution* made by adding $12\frac{1}{2}$ parts of 3 per cent hydrogen peroxide solution and 10 parts of 3 per cent ammonia solution to 75 parts of water. After 6 to 8 minutes in this it is washed again for ten minutes before drying. This procedure must never be applied before all free hypo has been washed out.

INCREASED PERMANENCE

There are four different methods by which a properly-made print can be protected from the normal action of the atmosphere and its life increased, probably by centuries. The simplest method is to "tone" it by the "sulphide-toning" process. This turns it from grey to a rich brown colour, and working details can be found in almost any elementary photographic textbook. In effect this process makes in a few seconds similar changes to those that many years of atmospheric action would; but in place of insidious and delicate "fine-grain" tarnishing the chemical effect is swift and has no dissolving power upon the silver image. The brown result is "silver-sulphide," a substance on which the air and ordinary fumes can wreak no further change.

A second way of protecting the image is to plate with gold all the silver specks of which it is composed. This is done by means of a gold toning bath† containing 1 part of 1 per cent gold chloride solution and 1 part of (solid) sodium thiocyanate to each 100 parts of water. In this the print is left for some ten minutes, or till a faint change in colour towards bluish black is seen. It is then washed and dried as usual.

Another method of preserving prints is to face them with thin sheet celluloid. This is ironed on with methylated spirit and a hot flat-iron. This method is suitable only for smallish prints, and it takes a little practice to perform.

The fourth method is to polish a clean sheet of glass with french chalk, and to give its edges a coat of rubber-solution. A varnish called "enamel collodion" (obtainable from the larger photographic chemists) is flowed over the glass and allowed to set hard. The prints are soaked in a thin solution of gelatine and are then rolled face down on the collodion. When dry they will peel off the glass with a high gloss which is damp-proof and almost scratch-proof, and if dry-mounted on a card with ordinary shellac tissue no dampness can get at the prints from either front or back.

The above methods are recommended for giving extra long life to ordinary silver-bromide prints. On the other hand black pigment-photographs, for example carbon, carbro and bromoil prints, are inherently more stable than any silver-prints. Even more so, of course, are those etched or burned into metal or glass, as for historical purposes.

* Kodak Formula No. H.E.2.

† Kodak Gold Protective Solution G.P.1.

CHAPTER 24

What Is A Good Photographer ?

A LAWYER NEEDING PHOTOGRAPHS may wish to know how he may recognize the man who can best do the kind of work he wants. A young photographer, aspiring to do work for lawyers, will like to know what may be expected of him. In short, what, for purposes of law, is a good photographer ?

It is often said, with truth, that a photograph can speak a thousand words. But what if the four or five essential words are virtually inaudible, and all the rest staccato ? What if all the words are said in a single breathless incoherent rush, or in a mumbling monotone ? That, in analogy, is how vital information may be provided, and often is provided, by an ordinary unskilled snapshot made by an unintelligent, uninformed, or non-technical photographer. As in English, so in photography a message can be conveyed in several types of language. There is the primitive language of the snapshot button-presser, and there is that of the flash-bulb artilleryman.

In neither of their results is it likely that a factory chimney would be mistaken for a perambulator. But whether the chimney is proved by the print to be actually leaning dangerously, or only appears to do so ; or whether the perambulator is shown by the photograph to be clearly infringing a patent or a design are other matters altogether.

The real facts are that to appreciate the merits of his client's case is the lawyer's first essential, and similarly to recognize and to know how to illustrate those merits is the photographer's. A good photograph is an intelligent illustration of the subject, not a laboratory exercise in wave-lengths or in mathematical gymnastics. Nor, for the purpose under discussion, should it be essentially a pictorial composition. Yet it has been amply proved that where the basic principles of art can be employed without detriment to the argument or evidence, the purpose of the photograph is thereby tremendously assisted.

How so ? When counsel recounts facts he does not use the same blunt way as does the policeman in the witness-box, but in describing the self-same facts or incidents he employs the art of words ! This parallel applies to photographic illustration of the most "straight-forward" still-life subjects such as, say, potato-blight, a machine-gun sight, a gear-box, a chisel, or a brick. One factor which has brought about a drop in this factual art of "illustration of a subject" is the notion that such photography is a quick and easy business. A further factor is the mechanical simplicity with which huge quantities of so-called "record-photographs" are often taken rapidly with hand-cameras and flashlights. The consequence is that fine factual illustrating is confused with mere haphazard record-making.

Yet to make telling illustrations which properly explain all kinds of mundane subjects takes far more general knowledge, craftsmanship and technical resource (and frequently more time) than if those subjects were endowed with great intrinsic interest and beauty.

LIGHTING THE MAIN FACTOR

Of all the factors which go to produce a realistic "descriptive likeness" of a subject, the light-and-shade on it is easily the most potent. Light has been the essential tool of photography since its discovery over a century ago ; yet outside the fields of cinema, publicity and portraiture the serious systematic study of the full control and application of light has scarcely yet begun. Also, as in other crafts, much has been lost through the war. There remain but a few stock formulas and tricks.

FLASH-BULBS BRING DECADENCE

What, more than anything, has led to this condition is the introduction of certain types of compact lighting units, often fixed adjacent to the camera-lens. These gadgets possess remarkable efficiency in convenience and speed, but because of that they have come to be regarded in many quarters as the acme of desirability. They produce a somewhat uniform but often poor type of photograph with consummate ease, and are essentially the tools for the sharpshooting newsman who, in all kinds of emergency, must bring home results regardless of their quality or crudeness. Admittedly these instruments have other occasional worth-while applications, such as the "freezing" of swiftly-moving subjects.

In the face of the present world-wide wave of popularity of these devices the writer has no wish to pose as a Canute. He merely would remind his readers that until their comparatively recent introduction it was a cherished tradition of good photography that results with a concentrated, directly frontal source of light were only a few degrees less favourable to any subject than with the light immediately behind it. After all, it is a form of lighting rarely found in nature, and never in industry or in the home. Consequently subjects so lit are apt to appear unfamiliar, almost unreal, and seldom pleasing.

WHAT IS LIGHTING ?

Any non-technical reader who does not appreciate those implications is asked first to consider that the mere strength or volume of the light is immaterial, unless the subject is a moving one. To measure that strength and to adjust the lens-iris or the shutter-speed accordingly is almost childishly elementary. Those actions are no cleverer than measuring and marking up a plank for cutting to a size. Good photography is much more than that. The reader is, however, next invited to carefully compare the crudeness of the "photography" of the newsreel at the cinema with the beauty of that in a fine "story-picture" ; even with a decent "documentary." In the one, light is merely thrown searchlight-fashion at the subject. In the other it is

applied to it with some technical intelligence and artistic discretion. The main factors of the light in "lighting" are only three: direction, distribution, and reflection. Yet lighting is a lifetime study; but oh, what it can say about the subject which one "lights."

RESOURCE

Next to sound and wide technique and ability in lighting, resourcefulness is the most valuable quality for those who would make photographs for evidence. This factor is not easy to define, and it often is not thought of by those, including lawyers, who are clients of photographers; sometimes not even by photographers themselves.

So easy is the production of some sort of photograph of most sorts of subjects, that it is frequently assumed that good photography is easy, too. Yet the general practitioner in photography is often called upon to photograph some especially difficult subjects in the most atrocious weather, in the most inaccessible situation, and far too often on the shortest possible notice. It is not unknown for him to be called upon to work his magic the very night before the case is to be heard in Court. Yet he usually succeeds.

INGENUITY

Sometimes the resourcefulness demanded is mechanical or technical, such as devising and constructing overnight a non-existent gadget, or adapting some variation of a process. The problem is another case may be merely that on arrival at the scene of action the sun is found to be behind the subject, shining directly into the photographer's eye and his camera's, while his last train home that day is due to leave in half-an-hour. It may be that the photographer has need somehow to fix his camera among a mass of whirling wheels, or to the top edge of a door. Perhaps his best or only viewpoint is a worm's-eye view from a grease-covered floor, or again a bird's-eye view from the centre of a roof. It may be a subject that needs a little ingenuity to make it stand upright (without showing the means of support); it may be a mechanism of which is to be shown what happens during automatic movement, or it may comprise a feathery substance or a set of delicate springs that quiver at a breath of wind or immediately one steps across the floor.

It is an entirely different problem when one photographs a big arc-lamp or switch in action, whose black details may need an exposure several hundred times the length of that required for the arc-flame or the sparking of the switch when that is pulled. Yet one is asked to make a picture showing the flame or spark amid the details that produce it. When faced with such a problem, the photographer does not sit down with a ream of squared paper for three-months orgy of calculation, as does the optician who "computes" a lens; nor does he work out a bill of quantities and beautifully-drawn plans, as does an architect or engineer. He is much more like the surgeon, who thinks hard for five or fifteen seconds, then gets on swiftly with the job, adapting his procedure as he comes against the snags.

It is all too commonly assumed that good photography consists mainly of correctly adjusting the mechanism of a more or less expensive camera, and of subsequently carrying out some tabulated chemical manipulations. It might with almost as much logic be proposed that writing a good book consists mainly of accurate finger-work upon a typewriter, assisted by reference to spelling-books and rules of grammar. The fact is that, in photography as in writing, it is the concentrated brain-work *before* the knobs are pressed that makes it good, or otherwise.

The types of men and work the writer has attempted to describe can sometimes be found in an old cathedral town, patiently illustrating with fine quality the queer gargoyles made by old-time craftsmen ; sometimes in a back room of a museum or a factory, photographing mechanical devices, rare china, jewellery, diseases of potatoes, fish-scales, coins and carpets. All simple-sounding subjects but each one with its different problems of "bringing-out" the features that the expert prizes. When occasion calls for speed such men can be quick upon the trigger ; but they far prefer to make sure the subject and its lighting are exactly right, even if they spend an hour or two where another man would merely "point-and-click." A pressman's triumph, frequently, is one of a hundred shots or more ; but the man who produces photographs for technical and legal evidence has to hit the nail every time.

ALL THINGS TO ALL MEN

Besides his technical resourcefulness such a photographer needs some adaptable notions on "deportment." One morning may find him in a ducal mansion, treading on rich carpets while photographing an allegedly "old master." That afternoon may see him an unwelcome intruder in the greasiest of slum cookshops where an accident occurred. For a high viewpoint he may need to use the most delicate diplomacy to gain admission to a tenement attic window at an inconvenient time of day. Another time he photographs the window through which a tycoon's wife dived to her death. He may be called upon to photograph the face of a beloved deceased, reposing on a pillow, and another day the wounded face of a nobleman reputed to have died through the "Curse of Pharaoh" ; or yet again, with all the tact that he can summon, the terrible mutilations on the face of a living child.

Yes ! It is certainly as well that photographers who aim at doing work for lawyers should know what they are in for. It might also be suggested that lawyers should remember, when they read of academic achievements with electron microscopes and aerial survey work, that there are many less spectacular subjects nearer home which call for equal technical and personal resource, and that it is not always fair to ask a photographer to do his stuff upon the spot with whatever apparatus happens to be handy or in whatever weather happens to be present.

It may often be the case that previous consultation (coupled with an appropriate fee) would be more likely to achieve more worth-while

results than giving the photographer a curt, last-minute summons, like one rings up the chimney-sweep. This is no revolutionary proposal. The British Council, which makes and distributes abroad fine photographs of the "British Way of Life," invariably holds conferences with its photographers when planning each assignment. Every cinema producer does the same. It is true that a press-photographer will dash off anywhere at a moment's notice and will bring back photographs, but they are not intended to be legal evidence of anything.

PROFESSIONAL STATUS

It may be opportune here to point out that photography, which so long and so well has served so many learned professions, has also far from recently attained the status of a profession in its own right. The professional body is the Institute of British Photographers, which has its own system of professional examinations and qualifications, and its code of ethics to which its members must subscribe. The Royal Photographic Society is the learned and artistic organization, with its six-thousand members, many of them highly distinguished people. The King is its Patron, and its Fellowship is regarded as a mark of high distinction. The "R.P.S." has its Scientific Group, and its Medical Group.

Maybe one day it will include also a Legal Group. No member of the legal profession need feel that he can lose a jot of dignity by meeting with photographers to discuss what they can do for him, and for the law. After all, for fourteen years the "R.P.S." had as President a famous Lord Chief Justice.

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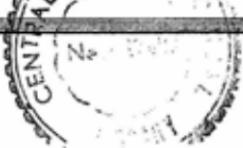
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